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TREASURY DEPARTMENT
BUREAU OF INTERNAL REVENUE

United States
**INTERNAL REVENUE
LAWS** *cf*

IN FORCE MAY 1, 1920

WITH AN APPENDIX
CONTAINING LAWS OF A GENERAL NATURE AND
MISCELLANEOUS PROVISIONS APPLICABLE
TO THE ADMINISTRATION OF THE
INTERNAL-REVENUE LAWS

COMPILED UNDER THE DIRECTION OF
COMMISSIONER OF INTERNAL REVENUE

COMPILATION OF 1920



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INTRODUCTION.

This compilation contains the internal revenue laws in force March 1, 1920.

The last compilation was published in 1911. Since that date many changes have been made in the law and new legislation enacted, rendering much of the matter contained in that compilation obsolete and making a new compilation very desirable.

The most important measures relating to internal revenue passed since the last compilation was issued are as follows:

I. Act of October 3, 1913 (38 Stat., 166), income tax. Superseded by act of September 8, 1916 (39 Stat., 756).

II. Acts of January 17, 1914 (38 Stat., 277), and December 17, 1914 (38 Stat., 785), opium.

III. Act of October 22, 1914 (38 Stat., 745), emergency revenue act.

IV. Act of August 11, 1916 (39 Stat., 476), cotton futures.

V. Act of September 8, 1916 (39 Stat., 756), entitled "An act to increase the revenue, and for other purposes," effective September 9, 1916, which repealed the emergency revenue act of October 22, 1914, and joint resolution of December 17, 1915, except sections three and four (special taxes), which remained in force until January 1, 1917, amended the income tax law by increasing the tax and modifying some of the minor and administrative measures without disturbing the fundamental features of the previous law. This act also imposed an estate tax, a munition manufacturer's tax, and other taxes.

VI. Act of March 3, 1917 (39 Stat., 1000), entitled "An act to provide increased revenue," etc., which imposed an excess profits tax and an estate tax, and provided for a return of dividends.

VII. Act of August 10, 1917 (40 Stat., 276, 282), forbidding use of foods, foodstuffs, etc., in production of distilled spirits for beverage purposes.

VIII. Act of October 3, 1917 (40 Stat., 300), war-revenue act. This was an act to provide revenue to defray war expenses and for other purposes, taking effect October 4, 1917, except as otherwise provided, and increasing the income tax, tax on distilled spirits and other articles, and imposing many new taxes.

IX. Act of November 21, 1918 (40 Stat., 1046), making sales of distilled spirits for beverage purposes until end of war unlawful.

X. Act of February 24, 1919 (40 Stat., 1057), entitled "An act to provide revenue, and for other purposes," which imposed an income tax, war-profits and excess-profits tax, estate tax, tax on transportation and other facilities, on insurance, on beverages, on cigars, tobacco, and manufactures thereof, on admissions and dues, an excise tax, special tax on occupations, stamp taxes, and a tax on employment of child labor.

XI. Act of October 28, 1919, known as the "National Prohibition Act," which prohibits intoxicating beverages, regulates the manufac-

ture, etc., of high-proof spirits for other than beverage purposes, and insures an ample supply of alcohol and promotes its use for certain purposes.

The body of this work consists of Title XXXV of the Revised Statutes, with amendments, and subsequent acts incorporated in their appropriate places, the obsolete and repealed sections being omitted, except where the repealing acts provide that repealed sections shall remain in force for administrative purposes.

The references, in previous compilations, to decisions of the courts, and the opinions of the Attorney General, and of this office, bearing upon the construction of the sections which they follow, and explanatory thereof, are retained where applicable, with additions, as are also the references made in notes at the close of sections to other sections of the law relating to the same matter or which modify or affect the sections which they follow.

The plan adopted in previous compilations in the arrangement of the appendix—viz, that of grouping the sections and acts relating to the same subject, instead of preserving the sequence according to the enumeration in the Revised Statutes—is followed in the present compilation.

The publication of internal-revenue decisions and circulars commencing January 1, 1898, have been published in Treasury Decisions weekly by the Treasury Department (T. D. 18758).

WM. M. WILLIAMS,
Commissioner of Internal Revenue.

ORGANIZATION OF INTERNAL REVENUE BUREAU.

SECRETARY OF THE TREASURY.
DAVID F. HOUSTON.

ASSISTANT SECRETARY OF THE TREASURY.
JOUETT SHOUSE.

COMMISSIONER OF INTERNAL REVENUE.
WILLIAM M. WILLIAMS.

ASSISTANT TO THE COMMISSIONER OF INTERNAL REVENUE.
PAUL F. MYERS.

SOLICITOR OF INTERNAL REVENUE.
WAYNE JOHNSON.

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P. S. TALBERT, *Chairman*.

INCOME TAX UNIT.
GEORGE V. NEWTON, *Deputy Commissioner*.
FRANKLIN C. PARKS, *Assistant*.

ESTATE, CAPITAL STOCK, AND CHILD LABOR TAX UNIT.
JAMES HAGERMAN, *Deputy Commissioner*.
LILLIAN S. RUDDICK, *Assistant*.

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C. B. HURREY, *Deputy Commissioner*.

SALES TAX, TOBACCO, AND MISCELLANEOUS UNIT.
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E. L. IRBY, *Chief*.

PROHIBITION UNIT.
JOHN F. KRAMER, *Commissioner*.
H. M. GAYLORD, *Assistant Commissioner*.

APPOINTMENT DIVISION.
G. S. PAULL, *Chief*.

EDITOR AND COMPILER.
H. B. SKILLMAN, *Special Attorney, Solicitor's Office*.

ABBREVIATIONS.

Abb. (U. S.)	Abbott's United States Circuit and District Court Reports.
Am. Eng. Ency. Law	American and English Encyclopedia of Law.
App. D. C.	Court of Appeals Reports, District of Columbia.
Ben.	Benedict's United States District Court Reports.
Bliss. (U. S.)	Bissell's United States Circuit and District Court Reports.
Blatch. or Blatchf.	Blatchford's United States Circuit Court Reports.
Bond (U. S.)	Bond's United States Circuit and District Court Reports.
Cal.	California Reports.
C. C. A.	Circuit Court of Appeals.
Cliff. (U. S.)	Clifford's United States Circuit Court Reports.
Conn.	Connecticut Reports.
Comp. Dec.	Comptroller's Decisions.
Ct. Cls. or Ct. Clms.	United States Court of Claims Reports.
Cranch (U. S.)	Cranch's United States Supreme Court Reports.
Dall. (U. S.)	Dallas' United States Reports.
Deady (U. S.)	Deady's United States Circuit and District Court Reports.
Dill. (U. S.)	Dillon's United States Circuit Court Reports.
Fed.	The Federal Reporter.
Fed. Cas.	Federal Cases United States Circuit and District Courts.
Ga.	Georgia Reports.
Gray (Mass.)	Gray's Massachusetts Reports.
Hughes (U. S.)	Hughes' United States Circuit Court Reports.
Int. Rev. Rec.	Internal Revenue Record.
Lawrence Dec.	Decisions of William Lawrence, First Comptroller of the Treasury.
Low.	Lowell's United States District Court Reports.
Mackey (D. C.)	Mackey's District of Columbia Reports.
Mass.	Massachusetts Reports.
N. C.	North Carolina Reports.
N. Y.	New York Reports.
Op. Atty. Gen.	United States Attorney General's Opinions.
Otto (U. S.)	Otto's United States Supreme Court Reports.
Penn.	Pennsylvania Reports.
Pet. (U. S.)	Peter's United States Supreme Court Reports.
Saw. or Sawy. (U. S.)	Sawyer's United States Circuit and District Court Reports.
Reg.	Internal Revenue Regulations.
R. S.	United States Revised Statutes.
Stat.	United States Statutes at Large.
T. D.	Treasury Decisions.
U. S.	United States Supreme Court Reports.
Wall. (U. S.)	Wallace's United States Supreme Court Reports.
Wash. Law Rep.	Washington Law Reporter.
W. Va.	West Virginia Reports.
Wheat.	Wheaton's United States Supreme Court Reports.
Wood (U. S.)	Wood's United States Circuit Court Reports.
Woolw.	Woolworth's United States Circuit Court Reports.

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COMMISSIONERS OF INTERNAL REVENUE SINCE THE ORGANIZATION OF THE INTERNAL REVENUE OFFICE IN 1862.

GEORGE S. BOUTWELL, of Massachusetts, from July 17, 1862, to March 3, 1863, both dates inclusive.

JOSEPH J. LEWIS, of Pennsylvania, from March 18, 1863, to June 30, 1865.

WILLIAM ORTON, of New York, from July 1, 1865, to October 31, 1865.

EDWARD A. ROLLINS, of New Hampshire, from November 1, 1865, to March 10, 1869.

COLUMBUS DELANO,¹ of Ohio, from March 11, 1869, to January 2, 1871.

John W. Douglass, of Pennsylvania, was Acting Commissioner from November 1, 1870, to January 2, 1871.

ALFRED PLEASANTON, of New York, from January 3, 1871, to August 8, 1871.

JOHN W. DOUGLASS, of Pennsylvania, from August 9, 1871, to May 14, 1875.

DANIEL D. PRATT, of Indiana, from May 15, 1875, to July 31, 1876.

GREEN B. RAUM, of Illinois, from August 2, 1876, to April 30, 1883.

Henry C. Rogers, of Pennsylvania, Acting Commissioner from May 1, 1883, to May 10, 1883.

John J. Knox, of Minnesota, Acting Commissioner from May 11, 1883, to May 20, 1883.

WALTER EVANS, of Kentucky, from May 21, 1883, to March 19, 1885.

JOSEPH S. MILLER, of West Virginia, from March 20, 1885, to March 20, 1889.

JOHN W. MASON, of West Virginia, from March 21, 1889, to April 18, 1893.

JOSEPH S. MILLER, of West Virginia, from April 19, 1893, to November 26, 1896.

WILLIAM ST. JOHN FORMAN, of Illinois, from November 27, 1896, to December 31, 1897.

NATHAN BAY SCOTT, of West Virginia, from January 1, 1898, to February 28, 1899.

GEORGE W. WILSON, of Ohio, from March 1, 1899, to November 27, 1900.

Robt. Williams, jr., of Ohio, Acting Commissioner from November 28, 1900, to December 19, 1900.

JOHN W. YERKES, of Kentucky, from December 20, 1900, to April 30, 1907.

JOHN G. CAPERS, of South Carolina, from June 5, 1907, to August 31, 1909.

ROYAL E. CABELL, of Virginia, from September 1, 1909, to April 27, 1913.

WILLIAM H. OSBORN, of North Carolina, from April 28, 1913, to September 25, 1917.

DANIEL C. ROPER, of South Carolina, from September 26, 1917, to March 31, 1920.

WILLIAM M. WILLIAMS, of Alabama, from April 1, 1920.

¹ Mr. Delano was appointed and commissioned Secretary of the Interior November 1, 1870. He did not resign the office of Commissioner of Internal Revenue, and therefore became the legal holder of two offices, Commissioner of Internal Revenue and Secretary of the Interior, as he might legally do, for the duties of the two offices are distinct and compatible. (*Converse v. United States*, 21 How., 468; *United States v. Saunders*, 120 U. S., 126.)

He continued to hold the office of Commissioner of Internal Revenue until his successor was appointed and qualified, but was absent from the internal-revenue office and discharged the duties and received the salary of the office of Secretary of the Interior and of that office only.

Deputy Commissioner Douglass was Acting Commissioner of Internal Revenue in the absence of Commissioner Delano (15 Stat., 168), and continued to be so until Alfred Pleasanton was commissioned as Commissioner of Internal Revenue, January 3, 1871.

INTERNAL REVENUE TAXATION.

CONSTITUTIONAL PROVISIONS REGARDING TAXATION.

Art. 1. Sec. 2. Cl. 3: “* * * direct taxes shall be apportioned among the several States * * * according to their respective numbers * * * .”

Art. 1. Sec. 8. Cl. 1: “The congress shall have power to lay and collect taxes, duties, imposts, and excises * * * ; but all duties, imposts, and excises shall be uniform throughout the United States.”

Art. 1. Sec. 9. Cl. 4: “No capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.”

Art. 1. Sec. 9. Cl. 5: “No tax or duty shall be laid on articles exported from any State.”

Art. 1. Sec. 10. Cl. 2: “No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws: and the net produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.”

Am. Art. 16: “The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.”

Am. Art. 18: “Section 1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

“SEC. 2. The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

“SEC. 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.”

POWER OF CONGRESS.

The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States. (Constitution of the United States, art. 1, sec. 8; *McGuire v. Commonwealth*, 3 Wall., 387; *Pervear v. Commonwealth*, 5 Wall., 533; *Collector v. Day*, 11 Wall., 113, 13 Int. Rev. Rec., 141; *United States v. Singer*, 15 Wall., 111, 17 Int. Rev. Rec., 9; *Scholey v. Rew*, 23 Wall., 331.)

A general power is given to Congress to lay and collect taxes of every kind or nature without any restraint, except only on exports; but two rules are prescribed for their government, namely, uniformity and apportionment. Three kinds of taxes, to wit, duties, imposts, and excises by the first rule, and capitation, or other direct taxes, by the second rule. (*Hylton v. United States*, 3 Dall., 171-173.)

The power of Congress to tax is a very extensive power. It is given in the Constitution with only one exception, and only two qualifications. Congress can not tax exports, and it must impose direct taxes by the rule of apportionment, and indirect taxes by the rule of uniformity. Thus limited, and thus only, it reaches every subject, and may be exercised at discretion. (*License Tax Cases*, 5 Wall., 463, 6 Int. Rev. Rec., 36.)

Subject to the limitations in the Constitution the taxing power of Congress extends to all usual objects of taxation. (*Knowlton v. Moore* (1900), 178 U. S., 41; T. D. 129.)

The authority conferred upon Congress by the Constitution to lay and collect taxes, duties, imposts, and excises is exhaustive, and embraces every conceivable power of taxation. (*Brushaber v. Union Pacific R. R. Co.*, 240 U. S., 1; T. D. 2290.)

APPORTIONMENT AND UNIFORMITY OF TAXES.

Direct taxes must be apportioned, while indirect taxes must be uniform throughout the United States. (*Income Tax Cases*, 157 U. S., 429; 158 Id., 601; *Nicol v. Ames*, 173 U. S., 509.)

A tax on bank circulation is not a direct tax, and may be laid without apportionment. (*Springer v. United States*, 102 U. S., 586; 27 Int. Rev. Rec., 78; *Veazie Bank v. Fenno*, 8 Wall., 533, 10 Int. Rev. Rec., 195.)

A tax upon the business of an insurance company is not a direct tax, but a duty or excise. (*Pacific Insurance Company v. Soule*, 7 Wall., 433.)

The tax imposed by the act of June 13, 1898 (war-revenue act), on sugar refining companies was not a direct tax but a "special excise tax." (*Spreckles Sugar Refining Co. v. McClain*, 192 U. S., 397; T. D. 760.)

The uniformity clause of the Constitution relates only to geographical uniformity. (*Head Money Cases*, 112 U. S., 580.)

The corporation excise tax provision of the act of August 5, 1909, is constitutional. The tax is not a direct tax, but an impost or excise which Congress has power to impose. (*Flint v. Stone-Tracy Company*, 220 U. S., 107; T. D. 1685.)

The income tax act of October 3, 1913, declared constitutional; it does not violate the rules of apportionment and uniformity. (*Brushaber v. Union Pacific R. R. Co.*, 240 U. S., 1; T. D. 2290.)

POWERS AS BETWEEN UNITED STATES AND A STATE.

No State court can by injunction or otherwise prevent Federal officers from collecting Federal taxes. The Government of the United States within its sphere is independent of State action. (*Keely v. Sanders*, 99 U. S., 443.)

The same principle which denies to a State power to raise a revenue by taxation on Federal property, or sources of revenue, or means of carrying on its duties, forbids taxation of State revenue for Federal purposes. (12 Op. Atty. Gen., 282; *Collector v. Day*, 11 Wall., 113; *Ambrosini v. United States*, 187 U. S., 1; T. D. 593.)

As the States can not tax the powers, the operations, or the property of the United States, nor the means which they employ to carry their powers into execution, so it has been held the United States have no power under the Constitution to tax either the instrumentalities or the property of a State. (*Pollock v. Trust Co.*, 157 U. S., 584.)

A municipal corporation is a portion of the sovereign power of the State, and is not subject to taxation by Congress upon its municipal revenues. (*United States v. Railroad Co.*, 17 Wall., 322.)

The exemption of State agencies does not extend to those used by the State in carrying on an ordinary private business. (*South Carolina v. United States*, 199 U. S., 437; T. D. 961.)

CONSTRUCTION OF STATUTES.

Intention: In construing statutes the fundamental rule is to get at the intention of the legislature. (In re Matthews, 109 Fed., 603.)

Legislative intention is the guide to true judicial interpretation. (*United States v. 100 Barrels of Spirits*, 12 Int. Rev. Rec., 153.)

A well-settled rule of interpretation is that a legislative act is to be interpreted according to the intention of the legislature apparent upon its face. (*Wilkinson v. Deland*, 2 Pet., 627; 22 Op. Atty. Gen., 363.)

The intention must be found from the language used. (*Merritt v. Welsh*, 104 U. S., 694.)

It is the duty of the court to study the whole statute, its policy, its spirit, its purpose, its language, and, giving to the words used their obvious and natural import, to read the act with these aids in such way as will best effectuate the intention of the legislature. (*United States v. 100 Barrels Spirits*, 12 Int. Rev. Rec., 154.)

Liberal or strict construction.—Revenue laws are not, like penal acts, to be construed strictly in favor of the defendants. They are rather to be regarded as remedial in their character, passed to promote the public good, and should be so construed as to carry out the intention of the legislature in passing them. (*Cliquot's Champagne*, 3 Wall., 114; 4 Int. Rev. Rec., 58; *United States v. 28 Casks of Wine*, 7 Int. Rev. Rec., 4; *United States v. 36 Barrels of High Wines*, 12 Id., 40; Fed. Cas. No. 16468; 7 Blatch., 459; *United States v. 100 Barrels of Spirits*, 12 Id., 153; *United States v. Stowell*, 133 U. S., 1; 36 Int. Rev. Rec., 30.)

As a general rule the construction of these statutes must be such as is most favorable to their enforcement. There is no liberal interpretation in favor of the individual to be indulged in. (18 Op. Atty. Gen., 246; 31 Int. Rev. Rec., 246.) Revenue laws are to be construed liberally to carry out the purposes of their enactment (*Smythe v. Fiske*, 23 Wall., 380; *Taylor v. United States*, 3 How., 197), and the rule of construction applicable to statutes generally, that what is implied in them is as much a part of the enactment as what is expressed, holds in regard to them. (*United States v. Hodson* (1870), 10 Wall., 395; 12 Int. Rev. Rec., 213.)

They should be construed with reasonable fairness to the citizen. (*United States v. Distilled Spirits*, 10 Blatch., 428.)

Statutes should receive a sensible construction, such as will effectuate the legislative intention, and avoid, if possible, an unjust or absurd construction. (*In re Chapman*, 166 U. S., 661.)

The laws providing for forfeiture by violators of revenue laws are not to be governed by the rule of strict construction applied to penal statutes in general, but are to have a reasonable construction. (*United States v. 246½ Pounds Tobacco*, 103 Fed., 791.)

Statutes are to receive a reasonable construction, and doubtful words and phrases are to be construed, if possible, so as not to produce mischievous results. But when the words are plain and unambiguous, there is no room for construction, and nothing is left for the court but to give them their full effect. (*The Samuel E. Spring* (1886), 27 Fed., 776.)

Laws of doubtful or double meaning should not be too harshly construed. (*United States v. 1,412 Gallons of Distilled Spirits*, 17 Int. Rev. Rec., 86.)

There is no reason requiring a statute imposing special internal-revenue taxes to be construed liberally in favor of the Government, but it should be construed fairly and judicially with reference to both parties. (*De Bary v. Souer*, 101 Fed., 425.)

Revenue and duty laws are not in the sense of the law penal acts, and are not, therefore, to be construed strictly. Nor are they, on the other hand, remedial, to be construed with extraordinary liberality, but are to be construed according to the true import and meaning of their terms, and legislative intention is the only guide of interpretation. (*United States v. Breed*, Fed. Cas. No. 1222; 1 Sumner, 159; *United States v. Thompson*, 189 Fed., 939.)

In the interpretation of statutes levying taxes, it is the established rule not to extend their provisions, by implication, beyond the clear import of the language used, or to enlarge their operations so as to embrace matters not specifically pointed out. Doubts are resolved against the Government.—(*Gould v. Gould*, 245 U. S., 151.)

The rule that the internal-revenue law should be strictly construed in favor of exemption is but a rule of construction, which yields when the intent of the statute is manifest. (*In re Hawley*, 220 Fed. 372.)

Where income tax law is doubtful, doubt should be resolved in favor of taxpayer against the Government. (*Miller v. Gearin*, 258 Fed., 225.)

Meaning of language: The words of the statute are to be taken in the sense in which they will be understood by that public in which they are to take effect. Science and skill are not required in their interpretation, except where scientific or technical terms are used. The liability of an instrument to stamp duty, as well as the amount of such duty, is determined by the form and face of the instrument, and can not be affected by proof of facts outside of the instrument itself. (*United States v. Isham*, 17 Wall., 496; 19 Int. Rev. Rec., 84.)

Punctuation no part of the statute. (*Hammock v. Loan and Trust Company*, 105 U. S., 77, 84, 85; 28 Op. Atty. Gen., 537.)

Punctuation not being part of a statute, repunctuation may be made if necessary to avoid absurd and incongruous results. (*T. D. 32281*.)

Courts are not at liberty, by construction or legal fiction, to include subjects of taxation not within the terms of the law. (*United States v. Watts*, 1 Bond, 580; 1 Int. Rev. Rec., 17.)

Duties are never imposed on the citizens upon vague or doubtful interpretations. (*Hartranft v. Weigmann*, 121 U. S., 609, and cases there cited.)

Extrinsic aids: Words spoken by members in debate, or the motives of members, not to be considered in construing statutes; but courts in construing a statute may, with propriety, recur to the history of the times when it was passed. (*United States v. Union Pacific Railroad Company*, 91 U. S., 72-79.)

Debates in Congress as sources of information for construction of statutes. (27 Op. Atty. Gen., 68.)

The courts may look to the history of the legislation upon the subject of which the statute treats, and the history of the times in which it was enacted, as well as the general history of the country, to determine the purpose that the Government sought to accomplish. (*Church of the Holy Trinity v. United States*, 143 U. S., 457.)

In case of ambiguity in a statute contemporaneous and uniform executive construction is regarded as decisive. (*Brown v. United States*, 113 U. S., 568; also decisions cited by Attorney General in letter to Secretary of Treasury, Nov. 17, 1885, 31 Int. Rev. Rec., 382; *Nunn v. Gerst Brewing Co.*, 99 Fed., 941.)

Where the language of a series of statutes is dubious, and open to different interpretations, the construction put upon them by the executive department charged with their execution has great and generally controlling force with the court. (*St. Paul, Minneapolis, etc., Railway Co. v. Phelps*, 137 U. S., 528; see 19 Op. Atty. Gen., 177.)

A construction of a doubtful or ambiguous statute by the executive department charged with the execution, in order to be binding upon the courts, must be long continued and unbroken. (*Merritt v. Cameron*, 137 U. S., 542.)

It is a rule well established that the construction given to a statute by those charged with the duty of executing it will be given great weight by the courts if the true construction be doubtful (*United States v. Hill*, 120 U. S., 169, and cases cited, p. 182); but this rule has no application where the statute is not ambiguous or where it will not bear the interpretation put upon it by the executive officers. (*Swift Company v. United States*, 105 U. S., 691, 695; *United States v. Graham*, 110 U. S., 219; *United States v. Tanner*, 147 U. S., 661; *United States v. Alger*, 152 U. S., 384, 397.)

A long continued and uniform interpretation, put by the executive and legislative departments of the Government, upon a clause in the Constitution should be followed by the judicial department unless such interpretation is manifestly contrary to its letter or spirit. (*Downes v. Bidwell*, 182 U. S., 244.)

A uniform construction by the department, put upon a doubtful statute, has great weight with the court in construing it, and, where the practice has been followed for a long time, the court will accept the department's interpretation as the proper one. (*United States v. Twitchell Co.*, 184 Fed., 526.)

While an act of Congress must be accepted for the purpose of interpretation in the form in which it was finally passed, and can not

be altered or amended to conform to the meaning given it by individual members who advocated its passage, or by a committee which may have discussed it in a report, such expressions of opinion are entitled to weight in construing the law. (*Penn. Mut. Life Ins. Co. v. Lederer*, 247 Fed. 559; reversed on another point by 258 Fed. 81.)

Construction with reference to other laws: Statutes in *pari materia* are to be construed together, and repeals by implication are not favored if the acts can reasonably stand together. (*Harrington's Distilled Spirits*, 11 Wall., 356, 13 Int. Rev. Rec., 193; *United States v. 100 Barrels of Spirits*, 12 Id., 153; *United States v. Cook County National Bank*, 25 Id., 266.)

Internal-revenue acts should be interpreted in harmony with the tariff legislation of the country. (*Taylor v. Treat* (1907), 153 Fed., 656.)

It is a settled rule that where there are two consistent acts relating to the same subject, effect is to be given to both of them. (*Chicago, etc., v. United States*, 127 U. S., 406; *Landram v. United States*, 118 U. S., 81; 32 Int. Rev. Rec., 151.)

General laws relating to internal revenue not affected by subsequent laws. Subsequent legislation does not supersede general laws unless the contrary clearly appears. (*United States v. Barnes*, 222 U. S., 513; T. D. 1751.)

Where there are two acts upon the same subject they must stand together if possible. (28 Op. Atty. Gen., 70.)

Statute as a whole: Statutes should be so construed, if practicable, that one section will explain and support and not defeat or destroy another section. (*Bernier v. Bernier*, 147 U. S., 242.)

The same statute may be in part constitutional and in part unconstitutional; and if the parts are wholly independent of each other, that which is constitutional may stand while that which is unconstitutional will be rejected. Unless it be impossible to avoid it, a general revenue statute should never be declared inoperative in all its parts because a particular part relating to a distinct subject may be invalid. (*Field v. Clark* (1892), 143 U. S., 649; 38 Int. Rev. Rec., 285.)

Retroactive operation: A statute is construed as prospective unless the intention is clearly expressed that it is retroactive. (*Flint v. Stone-Tracy Co.*, 220 U. S., 108; T. D. 1685.)

Presumption: When an act of Congress is claimed to be unconstitutional, the presumption is in favor of its validity, and it is only when the question is free from any reasonable doubt that courts should hold an act in violation of that fundamental instrument upon which all the powers of the Government rest. (*Nicol v. Ames*, 173 U. S., 509.)

The presumption is in favor of every legislative act. (*Brown v. Maryland*, 12 Wheat., 419; T. D. 1786.)

TIME WHEN AN ACT TAKES EFFECT.

A law of Congress which contains no provision as to the time when it shall take effect commences and takes effect as a law from the moment it receives the approbation of the President. As a general rule, it is not competent to go into the division of a day. (3 Op. Atty. Gen., 82.)

For most purposes the law regards the entire day as an indivisible unit. But when the priority of one legal right over another, depending on the order of events occurring on the same day, is involved, this rule is necessarily departed from. (*National Bank v. Burkhardt*, 100 U. S., 686.)

In the absence of proof there is a presumption that an act was signed on the first minute of the day when it took effect, but it is competent to show by proof the exact time when the law was approved by the President, and when this is made to appear the law can only be given effect from that time. (*Carriage Company v. Stengel*, 37 C. C. A., 210; 95 Fed., 637; *Nunn v. William Gerst Brewing Co.*, 99 Fed., 939.)

The case of *United States v. Iselin* (87 Fed., 194) contains a very full discussion of the subject by the Board of General Appraisers.

When necessary to determine conflicting rights courts of justice will take cognizance of the fractions of a day. (*Louisville v. Savings Bank* (1881), 104 U. S., 469.)

The act of March 3, 1875, took effect from the time it was approved and not at the commencement of the day. (*Salmon v. Burgess*, 97 U. S., 381; 25 Int. Rev. Rec., 31.)

When the act of August 28, 1894, went into effect. (*Burr v. United States*, 159 U. S., 78.)

The act of July 24, 1897, became a law only from the moment of its approval by the President, which was 6 minutes past 4 o'clock p. m. (Washington time) on July 24, 1897. (*United States v. Iselin*, 87 Fed., 194; *United States v. Stoddard*, 89 Fed., 699; affirmed by the United States circuit court of appeals, 91 Fed., 1005; 34 C. C. A., 175.) The Government, on the advice of the Attorney General, acquiesced in said decisions without seeking to prosecute any appeal to the United States Supreme Court. (T. D. 20627; T. D. 20700.)

The act of June 13, 1898, known as the "war-revenue act," took effect on the day next succeeding the day of its passage—that is, on June 14, 1898, except as otherwise provided for. (Sec. 51.)

The act of April 12, 1902 (war-revenue repeal act), took effect July 1, 1902, except as otherwise specially provided for in section 10.

The act of August 5, 1909 (Payne-Aldrich tariff act), took effect, unless otherwise specially provided, on the day following its passage.

The act of October 3, 1913, the act of September 8, 1916, the act of October 3, 1917, and the act of February 24, 1919, took effect the day following their passage, unless otherwise specially provided.

UNITED STATES SUPREME COURT DECISIONS UNDER ACT OF AUGUST 5, 1909.

FEDERAL CORPORATION EXCISE TAX.

Constitutionality of Act: *Flint v. Stone-Tracy Co.*, 220 U. S. 107 (T. D. 1685); *McCoach v. Minehill Ry. Co.*, 228 U. S. 295 (T. D. 1847); *United States v. Whitridge*, 231 U. S. 144 (T. D. 1896); *Stratton's Independence v. Howbert*, 231 U. S. 399 (T. D. 1913); *Anderson v. Forty-two Broadway Co.*, 239 U. S. 69 (T. D. 2261).

"Organized for profit": *Von Baumbach v. Sargent Land Co.*, 242 U. S. 503 (T. D. 2436).

"Doing business": Flint v. Stone-Tracy Co., 220 U. S. 107 (T. D. 1685); Zonne v. Minneapolis Syndicate, 220 U. S. 187; McCoach v. Minehill Ry. Co., 228 U. S. 295 (T. D. 1847); Stratton's Independence v. Howbert, 231 U. S. 399 (T. D. 1913); United States v. Emery, 237 U. S. 28 (T. D. 2188); Von Baumbach v. Sargent Land Co., 242 U. S. 503 (T. D. 2436).

Deductions in determining net income: Anderson v. Forty-two Broadway Co., 239 U. S. 69 (T. D. 2261); McCoach v. Insurance Co. of N. America, 244 U. S. 585 (T. D. 2501); Doyle v. Mitchell Bros. Co., 247 U. S. 179 (T. D. 2723); Goldfield Consol. Mines Co. v. Scott, 247 U. S. 126 (T. D. 2722).

Depreciation: Stratton's Independence v. Howbert, 231 U. S. 399 (T. D. 1913); Von Baumbach v. Sargent Land Co., 242 U. S. 503 (T. D. 2436); United States v. Biwabik Mining Co., 247 U. S. 116 (T. D. 2721); Doyle v. Mitchell Bros. Co., 247 U. S. 179 (T. D. 2723).

What is "income": Stratton's Independence v. Howbert, 231 U. S. 399 (T. D. 1913); Von Baumbach v. Sargent Land Co., 242 U. S. 503 (T. D. 2436); Doyle v. Mitchell Bros. Co., 247 U. S. 179 (T. D. 2723); United States v. Cleveland, etc., Ry. Co., 247 U. S. 195 (T. D. 2725); Hays v. Gauley Mountain Coal Co., 247 U. S. 189 (T. D. 2724); Altheimer & Rawlings Investment Co. v. Allen, 248 U. S. 578 (T. D. 2686).

Massachusetts real estate trust not within Act: Eliot v. Freeman, 220 U. S. 178.

UNITED STATES SUPREME COURT DECISIONS UNDER ACT OF OCTOBER 3, 1913.

INCOME TAX.

Constitutionality of act: Brushaber v. Union Pacific R. R. Co., 240 U. S. 1 (T. D. 2290); Stanton v. Baltic Mining Co., 240 U. S. 103 (T. D. 2303); Tyee Realty Co. v. Anderson, 240 U. S. 115 (T. D. 2300); Dodge v. Osborn, 240 U. S. 118 (T. D. 2301); (Recovery of tax under R. S., secs. 3220, 3226, 3227); Dodge v. Brady, 240 U. S. 122 (T. D. 2302); Peck & Co. v. Lowe, 247 U. S. 165 (T. D. 2726).

Joint-stock association: Massachusetts real estate trust held not to be joint-stock association.—Crocker v. Malley, 249 U. S. 223 (T. D. 2816).

Property of nonresident alien owned in United States: De Ganay v. Lederer, June 1, 1919 (T. D. 2876).

What is "income": Alimony paid to a divorced wife under a decree of court held not "income."—Gould v. Gould, 245 U. S. 151.

Stock dividend representing surplus profits earned prior to January 1, 1913, not taxable to shareholders as income.—Towne v. Eisner, 245 U. S. 418 (T. D. 2634).

Net income of a corporation derived from exporting goods from the States and selling them abroad is subject to be taxed as part of the "entire net income arising or accruing from all sources."—Peck & Co. v. Lowe, 247 U. S. 165 (T. D. 2726).

Increase in value of timberlands prior to March 1, 1913, when distributed to shareholders on liquidation of corporation, held not "income."—Lynch v. Turrish, 247 U. S. 221 (T. D. 2729).

Accumulations accruing to corporation through surplus earnings or appreciation in property value prior to March 1, 1913, are capital and not income.—*Southern Pacific Co. v. Lowe*, 247 U. S. 330 (T. D. 2730).

Dividends of a corporation paid to shareholders after March 1, 1913, whether from current earnings or from surplus accumulated before that date, held taxable to shareholders as income under the "surtax" provision. (*Lynch v. Turrish*, 247 U. S. 221 and *Southern Pac. Co. v. Lowe*, 247 U. S. 330, distinguished.)—*Lynch v. Hornby*, 247 U. S. 339 (T. D. 2731).

A dividend by a corporation of shares owned by it in another corporation is not a stock dividend and is subject to tax like an equivalent distribution of money. (*Towne v. Eisner*, 245 U. S. 418, distinguished; *Lynch v. Hornby*, 247 U. S. 339, affirmed.)—*Peabody v. Eisner*, 247 U. S. 347 (T. D. 2732).

Dividends, by subsidiaries to a company holding all their stock and controlling them in conducting a single enterprise, out of earnings accumulated prior to January 1, 1913, are not taxable as income.—*Gulf Oil Corp. v. Lewellyn*, 248 U. S. 71 (T. D. 2783).

INTERNAL REVENUE LEGISLATION.

The Revised Statutes were compiled under an act of June 27, 1866 (14 Stat., 74).

A list of acts respecting internal-revenue duties, from the first act (act of March 3, 1791) to April 28, 1828, is published in United States Statutes at Large, Volume 1.

ACTS OF CONGRESS RELATING TO INTERNAL REVENUE ENACTED SINCE JULY 4, 1861,¹ AND BEFORE DECEMBER, 1873.

[Not including private acts, nor appropriation acts passed prior to the enactment of the Revised Statutes, June 22, 1874.]

REVISED STATUTES, TITLE XXXV, SECTIONS 3140-3465.

No reference can be had to the original statutes to control the construction of any section of the Revised Statutes when its meaning is plain, but where there is a substantial doubt as to the meaning of the language used in the revision the old law is a valuable source of information. (*United States v. Bowen*, 100 U. S., 508, 513; *United States v. Lacher*, 134 U. S., 624.)

In construing any part of the Revised Statutes it is admissible and often necessary to recur to its connection in the act of which it was originally a part. (*United States v. Hirsch*, 100 U. S., 35.)

In case of ambiguous language in the Revised Statutes or uncertainty as to the true construction to be given to the words of any section, previous acts on the same subject may be referred to and examined for light on the object and intent of Congress as shown by the course of legislation, in the same manner as statutes in *pari materia* relating to the same subject may always be taken, compared, and construed together. (*Wright v. United States*, 15 Ct. Cls., 87. See also *United States v. Claffin*, 97 U. S., 546, and opinion of First Comptroller Porter in *Kansas claim for 5 per cent net proceeds of public lands*, 1 Lawrence Dec., 43.)

No inference or presumption of a legislative construction is to be drawn by reason of the title under which any particular section is placed. (Sec. 5600, R. S.)

An act to provide increased revenue from imports, to pay interest on the public debt, and for other purposes, approved August 5, 1861 (12 Stat., 292.) See act June 7, 1862 (12 Stat., 422).

Direct tax and income. The act of March 2, 1891 (26 Stat., 822), authorized the return to the States of the direct tax collected.

An act to provide internal revenue to support the Government and to pay interest on the public debt, approved July 1, 1862 (12 Stat., 432).

Office of Internal Revenue created.

Income tax.—Under this act the tax was 3 per cent on incomes over \$600 and not over \$10,000; over \$10,000, 5 per cent. Act of March 3, 1865, over \$600 and not over \$5,000, 5 per cent; over \$5,000, 10 per cent on excess over \$5,000. Act of March 2, 1867, over \$1,000, 5 per cent. Act of July 14, 1870, over \$2,000, 2½ per cent. Income tax expired by limitation December 31, 1871. No income tax was collected under the act of June 30, 1864, as it was amended by the act of March 3, 1865, before it was collectible.

Imposed tax on cotton.

¹ On this date Congress convened in its first (extraordinary) session after the commencement of the War of the Rebellion, at which session was commenced the legislation which has since produced the present system of internal revenue taxation.

An act increasing temporarily the duties on imports, and for other purposes, approved July 14, 1862 (12 Stat., 543, 560).

Sections 24 and 25 relate to internal revenue.

An act to impose an additional duty on sugars produced in the United States, approved July 16, 1862 (12 Stat., 588).

Joint resolution to amend section 77 of "An act to provide internal revenue to support the Government and to pay interest on the public debt," and for other purposes, approved July 17, 1862 (12 Stat., 627.)

An act to amend an act entitled "An act to provide internal revenue to support the Government and to pay interest on the public debt," approved July 1, 1862. Approved December 25, 1862 (12 Stat., 632).

An act to provide ways and means for the support of the Government, approved March 3, 1863 (12 Stat., 709).

Section 7, bank circulation.

An act to amend an act entitled "An act to provide internal revenue to support the Government and [to] pay interest on the public debt," approved July 1, 1862, and for other purposes. Approved March 3, 1863 (12 Stat., 713).

An act to prevent and punish frauds upon the revenue, to provide for the more certain and speedy collection of claims in favor of the United States, and for other purposes, approved March 3, 1863 (12 Stat., 737).

Joint resolution to provide for the printing annually of the report of the Commissioner of Internal Revenue, approved January 13, 1864 (13 Stat., 400).

An act to increase the internal revenue, and for other purposes, approved March 7, 1864 (13 Stat., 14).

An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes, approved June 30, 1864 (13 Stat., 223).

Inspection stamps required on cigars. No money value.

Joint resolution imposing a special income duty [for the year ending December 31 next preceding October 1, 1864], approved July 4, 1864 (13 Stat., 417).

An act to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864. Approved December 22, 1864 (13 Stat., 420).

An act to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864. Approved March 3, 1865 (13 Stat., 469).

Inspection stamps required on tobacco and snuff. No money value.

An act amendatory of certain acts imposing duties upon foreign importations, approved March 3, 1865 (13 Stat., 491).

An act authorizing the Secretary of the Treasury to appoint assistant assessors of internal revenue, approved January 15, 1866 (14 Stat., 2).

An act to declare the meaning of certain parts of the internal-revenue act, approved June 30, 1864, and for other purposes. Approved March 10, 1866 (14 Stat., 4).

An act to reduce internal taxation and to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof. Approved July 13, 1866 (14 Stat., 98).

First act reducing taxation. Stamps first required on fermented liquors. Changing "Licenses" to "Special taxes."

An act to authorize the refunding of certain taxes, approved July 27, 1866 (14 Stat., 301).

An act amendatory of section 13 of an act entitled "An act to amend an act entitled 'An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes,' approved June 30, 1864," approved March 3, 1865. Approved July 27, 1866 (14 Stat., 301).

Joint resolution to prevent the further enforcement of the joint resolution (No. 77) approved July 4, 1864, against officers and soldiers of the United States who have been honorably discharged, so as to relieve them from the further payment of the special 5 per cent income tax imposed thereby, approved July 28, 1866 (14 Stat., 371).

Joint resolution to amend existing laws relating to internal revenue, approved February 5, 1867 (14 Stat., 565).

A resolution to provide in certain cases for the removal of alcohol from bonded warehouses free from internal tax, approved February 18, 1867 (14 Stat., 565).

An act to amend existing laws relating to internal revenue, and for other purposes, approved March 2, 1867 (14 Stat., 471).

Reduced taxes.

An act to exempt wrapping paper made from wood or cornstalks from internal tax, and for other purposes, approved March 26, 1867 (15 Stat., 6).

An act to prevent frauds in the collection of tax on distilled spirits, approved January 11, 1868 (15 Stat., 34).

Prohibits removal of spirits from warehouse for the purpose of transportation, redistillation, or rectification, change of package, or for any other purpose, until the full tax has been paid.

An act to provide for the exemption of cotton from internal tax, approved February 3, 1868 (15 Stat., 34).

* Reduced taxes by repealing cotton tax.

Joint resolution to provide for a commission to examine and report on meters for distilled spirits, approved February 3, 1868 (15 Stat., 246).

An act to exempt certain manufactures from internal tax, and for other purposes, approved March 31, 1868 (15 Stat., 58).

Reduced taxes.

An act for the relief of certain exporters of rum, approved June 25, 1868 (15 Stat., 78).

Joint resolution to correct an act entitled "An act for the relief of certain exporters of rum." Approved July 6, 1868 (15 Stat., 256).

An act imposing taxes on distilled spirits and tobacco, and for other purposes, approved July 20, 1868 (15 Stat., 125).

Stamps first required on distilled spirits. Revised the entire law relative to spirits and tobacco. Reduced taxation. Tax on cigars and tobacco payable by stamps. Inspectors abolished except inspectors of tobacco. Supervisors and detectives authorized.

An act to correct an error in the enrollment of the "Act imposing taxes on distilled spirits and tobacco, and for other purposes." Approved July 27, 1868 (15 Stat., 238).

An act to amend an act entitled "An act imposing taxes on distilled spirits and tobacco, and for other purposes," approved July 20, 1868. Approved December 22, 1868 (15 Stat., 266).

An act to allow deputy collectors of internal revenue, acting as collectors, the pay of collectors, and for other purposes, approved March 1, 1869 (15 Stat., 282).

An act to amend an act entitled "An act to exempt certain manufactures from internal tax, and for other purposes," approved March 31, 1868. Approved March 3, 1869 (15 Stat., 336).

"Joint resolution to supply omissions in the enrollment of certain appropriation acts, approved March third, eighteen hundred and sixty-nine," approved March 29, 1869 (16 Stat., 52).

An act to amend an act entitled "An act imposing taxes on distilled spirits and tobacco, and for other purposes," approved July 20, 1868. Approved April 10, 1869 (16 Stat., 41).

Joint resolution in relation to female clerks in the Internal Revenue Bureau, approved June 29, 1870 (16 Stat., 382).

An act to define the intent of an act entitled "An act to allow deputy collectors of internal revenue, acting as collectors, the pay of collector[s], and for other purposes," approved March 1, 1869. Approved July 1, 1870 (16 Stat., 179).

A resolution to determine the construction of an act to provide internal revenue to support the Government, [to pay interest on the public debt,] and for other purposes, approved June 30, 1864. Approved July 13, 1870 (16 Stat., 387).

An act to reduce internal taxes, and for other purposes, approved July 14, 1870 (16 Stat., 256).

Repeated taxes on gross receipts, legacies and successions, passports, and special taxes, except those relating to spirits, fermented liquors, and tobacco, also taxes on sales. Income tax to expire December 31, 1871.

An act to amend existing laws relating to internal revenue, approved July 14, 1870 (16 Stat., 274).

An act to amend section 4 of the act of March 31, 1868, approved July 14, 1870 (16 Stat., 277).

Joint resolution to construe the act of March 31, 1868, approved July 14, 1870 (16 Stat., 388).

An act relating to internal taxes, approved March 3, 1871 (16 Stat., 475).

Joint resolution to amend section 4, act of July 20, 1868, approved March 3, 1871 (16 Stat., 601).

An act to repeal the paragraphs of Schedule C of the internal-revenue acts imposing taxes on canned meats, fish, and certain other articles, approved March 5, 1872 (17 Stat., 36).

An act to provide for the abatement or repayment of taxes on distilled spirits in bond destroyed by casualty, approved May 27, 1872 (17 Stat., 162).

An act to reduce duties on imports and to reduce internal taxes, and for other purposes, approved June 6, 1872 (17 Stat., 238), taking effect October 1, 1872.

Stamp duties on instruments, except bank checks, repealed. Moieties abolished. Uniform rate of 20 cents per pound on tobacco instead of the two rates, 16 and 32 cents. Tax on spirits, 70 cents per gallon.

An act for the reduction of officers and expenses of the internal revenue, approved December 24, 1872 (17 Stat., 401).

Assessors abolished. Reduces collection districts.

An act to remit the excise taxes upon alcohol used by universities and colleges for scientific purposes, approved February 21, 1873 (17 Stat., 468).

An act to amend an act entitled "An act to reduce duties on imports and to reduce internal taxes, and for other purposes," approved June 6, 1872, and for other purposes. Approved March 3, 1873. Section 5 of this act amends section 55 of the act of July 20, 1868, as amended by the act of June 6, 1872 (17 Stat., 559).

An act to amend an act entitled "An act to prevent smuggling, and for other purposes," approved July 18, 1866. Approved March 3, 1873 (17 Stat., 580).

An act relating to the fractional parts of a barrel containing fermented liquors, approved March 3, 1873 (17 Stat., 586).

An act to place at the disposal of the Commissioner of Internal Revenue certain copies of the new compilation of internal-revenue laws. Approved March 3, 1873 (17 Stat., 621).

Reprint of internal-revenue laws from August 5, 1861, to March 3, 1873. Submitted in response to order of the Senate of May 16, 1898, for use in consideration of House bill 10100, to provide ways and means to meet war expenditures.

Senate Report No. 1123 55th Cong., 2d sess.

ACTS, ETC., SINCE DECEMBER 1, 1873, THE DATE TO WHICH THE REVISED STATUTES OF THE UNITED STATES RELATE (See sec. 5595, R. S.), AND BEFORE JANUARY 1, 1903.

[Supplement No. 1, Revised Statutes, contains legislation of 1874-1891, Forty-third to Fifty-first Congresses, inclusive. Supplement No. 2 (parts 1 to 9) contains legislation of 1892-1901, Fifty-second to Fifty-sixth Congresses, inclusive.]

Forty-third Congress.

An act to so amend the laws relative to internal revenue as to allow distillery warehouses to be continued in use after changes have occurred in the management of the business, approved January 8, 1874 (18 Stat., 2). [See post, p. 223.]

An act to abolish the office of Deputy Commissioner of Internal Revenue, approved January 29, 1874 (18 Stat., 6).

Note to section 322, R. S.

An act to facilitate the exportation of distilled spirits, and amendatory of the acts in relation thereto, approved June 9, 1874 (18 Stat., 64). [Sec. 3330, p. 281.]

An act explanatory of the act of June 30, 1864. Became law June 18, 1874 (18 Stat., 80).

An act for the relief of savings institutions having no capital stock and doing business solely for the benefit of depositors, approved June 22, 1874 (18 Stat., 194).

An act to provide for the stamping of unstamped instruments, documents, or papers, approved June 23, 1874 (18 Stat., 250).

An act to amend existing customs and internal-revenue laws, and for other purposes, approved February 8, 1875 (18 Stat., 309).

An act to correct errors and to supply omissions in the Revised Statutes of the United States, approved February 18, 1875 (18 Stat., 316).

The changes made by this act were incorporated into the second edition, Revised Statutes, in their proper place.

An act to further protect the sinking fund and provide for the exigencies of the Government, approved March 3, 1875 (18 Stat., 339).

Increased tax on spirits to 90 cents per gallon and tobacco to 24 cents per pound; cigars to \$6 per thousand.

An act making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1876, and for other purposes, approved March 3, 1875 (18 Stat., 352).

Section 12 of "An act making appropriations to supply deficiencies in the appropriations for fiscal year ending June thirtieth, eighteen hundred and seventy-five, and prior years, and for other purposes," approved March 3, 1875 (18 Stat., 419).

An act to amend section numbered 3342 of the Revised Statutes of the United States, in relation to affixing stamps on brewers' casks, approved March 3, 1875 (18 Stat., 484).

An act to authorize the Secretary of the Treasury to adjust and remit certain taxes and penalties claimed to be due from mining and other corporations, and for other purposes, approved March 3, 1875 (18 Stat., 507).

Forty-fourth Congress.

An act to extend the time for stamping unstamped instruments, approved February 25, 1876 (19 Stat., 5).

Time extended to January 1, 1877.

Joint resolution concerning special-tax stamps, approved May 8, 1876 (19 Stat., 213). [See post, p. 154.]

An act to define the tax on fermented or malt liquors, approved May 13, 1876 (19 Stat., 53). [See post, p. 307.]

An act relative to the redemption of unused stamps, approved July 12, 1876 (19 Stat., 88).

An act making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1877, and for other purposes, approved August 15, 1876 (19 Stat., 152).

Supervisors abolished. Reduced number of collection districts.

An act to perfect the revision of the statutes of the United States, and of the statutes relating to the District of Columbia, approved February 27, 1877 (19 Stat., 240).

Changes made by this act were incorporated in the second edition Revised Statutes.

An act making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1878, and for other purposes, approved March 3, 1877 (19 Stat., 303).

Reduced number of collection districts.

An act relating to the production of fruit brandy and to punish frauds connected with the same, approved March 3, 1877 (19 Stat., 393).

Forty-fifth Congress.

Joint resolution declaring that a reduction of the tax on distilled spirits is inexpedient, approved February 18, 1878 (20 Stat., 248).

Joint resolution to prescribe the time for the payment of the tax on distilled spirits, and for other purposes, approved March 28, 1878 (20 Stat., 249).

Repealed by the act of May 28, 1880.

An act to extend the provisions of section 3297 of the Revised Statutes to other institutions of learning, approved May 3, 1878 (20 Stat., 48). [See post, p. 257.]

An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes, approved June 19, 1878 (20 Stat., 197). [See post, p. 89.]

An act to amend section 5497 of the Revised Statutes relating to embezzlement by officers of the United States, approved February 3, 1879 (20 Stat., 280). [Sec. 5497, Sec. 96, Criminal Code, Appendix.]

An act to amend the laws relating to internal revenue, approved March 1, 1879 (20 Stat., 327).

Reduced tax on tobacco and many important changes made.

Forty-sixth Congress.

An act relating to vinegar factories established and operated prior to March 1, 1879, approved June 14, 1879 (21 Stat., 20). [Sec. 3282.]

An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1880, and for other purposes, approved June 21, 1879 (21 Stat., 23).

Salary of storekeepers limited.

An act providing for the binding of the Internal-Revenue Laws and Manual, approved June 27, 1879 (21 Stat., 35).

An act authorizing an allowance for loss by leakage or casualty of spirits withdrawn from distillery warehouses for exportation, approved December 20, 1879 (21 Stat., 59).

An act to amend the laws in relation to internal revenue, approved May 28, 1880 (21 Stat., 145).

"Carlisle bill." Repealed provision charging 10 cents for stamps other than tax-paid or export.

An act to amend sections 3385 and 3357 of the Revised Statutes of the United States, approved June 9, 1880 (21 Stat., 167).

An act to amend the sixth subdivision of section 3244 of the Revised Statutes of the United States, approved June 16, 1880 (21 Stat., 291).

Forty-seventh Congress.

An act to repeal so much of section 3385 of the Revised Statutes as imposes an export tax on tobacco, approved August 8, 1882 (22 Stat., 372).

An act to amend section 3362 of the Revised Statutes relating to the tax on perique tobacco, approved January 9, 1883 (22 Stat., 401).

An act relating to exportation of tobacco, snuff, and cigars, in bond, free of tax to adjacent foreign territory, approved January 13, 1883 (22 Stat., 402).

An act to reduce internal-revenue taxation, and for other purposes, approved March 3, 1883 (22 Stat., 486).

Reduced tax on tobacco to 8 cents per pound and repealed stamp taxes on bank checks, matches, perfumery, medicinal preparations, and other articles imposed by Schedule A following section 3437, Revised Statutes.

Forty-eighth Congress.

An act to limit the time within which prosecutions may be instituted against persons charged with violating internal-revenue laws, approved July 5, 1884 (23 Stat., 122).

An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1885, and for other purposes, approved July 7, 1884 (23 Stat., 172).

Similar act for fiscal year ending June 30, 1886, approved March 3, 1885 (23 Stat., 404).

Forty-ninth Congress.

An act to amend section 3336 of the Revised Statutes of the United States, approved April 29, 1886 (24 Stat., 15).

An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1887, and for other purposes, approved July 31, 1886 (24 Stat., 187).

An act defining butter, also imposing a tax upon and regulating the manufacture, sale, importation, and exportation of oleomargarine, approved August 2, 1886 (24 Stat., 209).

An act to provide for the inspection of tobacco, cigars, and snuff, and to repeal section 3151 of the Revised Statutes, approved August 4, 1886 (24 Stat., 218).

Fiftieth Congress.

An act to prevent the manufacture or sale of adulterated food or drugs in the District of Columbia, approved October 12, 1888 (25 Stat., 549).

Practically repealed by the "Act relating to the adulteration of foods and drugs in the District of Columbia," approved February 17, 1898 (30 Stat., 246).

An act to provide for warehousing fruit brandy, approved October 18, 1888 (25 Stat., 560).

An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1890, and for other purposes, approved March 2, 1889 (25 Stat., 939).

Fifty-first Congress.

An act to provide for certain of the most urgent deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1890, and for other purposes, approved April 4, 1890 (26 Stat., 34).

An act to amend section 3354, Revised Statutes, approved June 18, 1890 (26 Stat., 161).

Removal of beer for bottling by a pipe line or conduit.

An act to provide for the exportation of fermented liquor in bond without payment of internal-revenue tax, approved June 18, 1890 (26 Stat., 162).

An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1891, approved July 11, 1890 (26 Stat., 228).

An act making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1890, and for prior years, and for other purposes, approved September 30, 1890 (26 Stat., 504).

An act to reduce the revenue and equalize the duty on imports, and for other purposes, approved October 1, 1890 (26 Stat., 567).

"McKinley bill." Imposed tax on opium, authorized bounty on sugar, reduced tax on tobacco to 6 cents per pound, special-tax year to commence July 1.

An act to authorize the payment of drawback or rebate in certain cases, approved December 18, 1890 (26 Stat., 689).

An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1892, approved March 3, 1891 (26 Stat., 862).

An act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1892, approved March 3, 1891 (26 Stat., 1050).

Removal of distilled spirits free of tax for making sugar from sorghum.

Fifty-second Congress.

An act to prohibit the coming of Chinese persons into the United States, approved May 5, 1892 (27 Stat., 25).

The "Geary bill." Certificates of residence to be obtained from collector of internal revenue. This act was amended by the act, approved November 3, 1893, known as the "McCreary bill" (28 Stat., 7). This matter is now under the Commissioner General of Immigration. (Sec. 7, act of Feb. 14, 1903, 32 Stat., 828).

An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1893, and for other purposes, approved July 16, 1892 (27 Stat., 183).

An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1894, and for other purposes, approved March 3, 1893 (27 Stat., 572).

An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1894, and for other purposes, approved March 3, 1893 (27 Stat., 675).

Fifty-third Congress.

An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1895, and for other purposes, approved July 31, 1894 (28 Stat., 162).

Contains the "Dockery bill."

An act to provide for the collection of internal revenue, and for other purposes, approved August 27, 1894 (28 Stat., 508).

An act to reduce taxation, to provide revenue for the support of the Government, and for other purposes, became a law without the President's approval, in effect August 28, 1894 (28 Stat., 509).

The "Wilson bill" imposed an income tax, since declared unconstitutional. Tax, 2 per cent upon incomes over \$4,000. Law declared unconstitutional May 20, 1895 (*Pollock v. The Farmers' Loan & Trust Company*, and *Hyde v. The Continental Trust Co., of N. Y.*), on the ground that the tax was a direct tax (158 U. S., 601).

The court had previously held the law was unconstitutional as far as it sought to tax rents and income from real estate, and income from State, county, and municipal bonds (157 U. S., 429). Reimposed tax on playing cards. Repealed bounty on sugar.

Became a law August 27 according to Supp. R. S., vol. 2, p. 334. See *United States v. Burr*, 159 U. S., 78.

An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1896, and for other purposes, approved March 2, 1895 (28 Stat., 910).

Bounty on sugar—payment on production prior to August 23, 1894.

Fifty-fourth Congress.

An act to repeal section 61 of an act to reduce taxation, to provide revenue for the Government, and for other purposes, which became a law August 28, 1894, approved June 3, 1896 (29 Stat., 195).

Repeals provision exempting alcohol used in the arts from tax.

An act to amend section 3255 of the Revised Statutes of the United States, concerning the distilling of brandy from fruits, approved June 3, 1896 (29 Stat., 195).

An act defining cheese, and also imposing a tax upon and regulating the manufacture, sale, importation, and exportation of "filled cheese," approved June 6, 1896 (29 Stat., 253).

An act to allow the bottling of distilled spirits in bond, approved March 3, 1897 (29 Stat., 626).

An act to amend section 40 of "An act to reduce the revenue and equalize duties on imports, and for other purposes," approved October 1, 1890, so as to authorize the sale of forfeited domestic smoking opium to the highest bidder, approved March 3, 1897 (29 Stat., 695).

Fifty-fifth Congress.

An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1898, and for other purposes, approved June 4, 1897 (30 Stat., 11).

Bounty on sugar—payment of balance of claims, etc.

An act to provide revenue for the Government and to encourage the industries of the United States, approved July 24, 1897 (30 Stat., 151).

The "Dingley bill." Amended sections 3341 and 3394, Revised Statutes.

An act to provide ways and means to meet war expenditures, and for other purposes, approved June 13, 1898 (30 Stat., 448).

War-revenue act. Additional special taxes imposed; increased tax on fermented liquors, tobacco, and cigars; imposed legacy taxes, tax on mixed flour, stamp taxes on instruments, etc.

An act making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1898, and for prior years, and for other purposes, approved July 7, 1898 (30 Stat., 652).

Relative to payment of gaugers of fruit brandy—additional temporary force in Internal-Revenue Service.

An act to amend section 3287 of the Revised Statutes of the United States, concerning the drawing off, gauging, marking, and removal of spirits, approved February 21, 1899 (30 Stat., 843).

An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1900, and for other years, approved February 24, 1899 (30 Stat., 864).

Term of temporary service of additional clerks extended one year.

(Public Resolution No. 22.)—Joint resolution to amend section 25 of the act passed June 13, 1898, entitled "An act to provide ways and means to meet war expenditures, and for other purposes," approved February 28, 1899 (30 Stat., 1390).

Bonds secured by mortgages, but one stamp required, etc.

An act to amend the internal-revenue laws relating to distilled spirits, and for other purposes, approved March 3, 1899 (30 Stat., 1349).

Allowance on loss in warehouse.

An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1900, and for other years, approved March 3, 1899 (30 Stat., 1091).

Fifty-sixth Congress.

An act making appropriations for the legislative, executive and judicial expenses of the Government for the fiscal year ending June 30, 1901, and for other purposes, approved April 17, 1900 (31 Stat., 86).

An act to provide a government for the Territory of Hawaii, approved April 30, 1900 (31 Stat., 141). Takes effect 45 days from and after the date of approval—that is, on June 14, 1900.

An act authorizing the Commissioner of Internal Revenue to redeem or make allowance for internal-revenue stamps, approved May 12, 1900 (31 Stat., 177).

An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1901, and for other purposes, approved June 6, 1900 (31 Stat., 588).

An act to amend section 3255 of the Revised Statutes of the United States concerning the distilling of brandy from fruits, approved February 4, 1901 (31 Stat., 759).

An act to amend an act entitled "An act to provide ways and means to meet war expenditures, and for other purposes," approved June 13, 1898, and to reduce taxation thereunder, approved March 2, 1901 (31 Stat., 938).

Revenue reduction act. Repealed certain war revenue taxes after July 1, 1901.

ACTS SINCE SUPPLEMENT REVISED STATUTES, VOL. 2, PART 9, (JAN. 1, 1902).

Fifty-seventh Congress.

Joint resolution authorizing the Commissioner of Internal Revenue to return bank checks, drafts, certificates of deposit, and orders for the payment of money, having imprinted stamp thereon, to the owners thereof, and for other purposes, approved February 26, 1902 (32 Stat., 736).

An act temporarily to provide revenue for the Philippine Islands, and for other purposes, approved March 8, 1902 (32 Stat., 54).

An act to repeal war-revenue taxation, and for other purposes, approved April 12, 1902; taking effect July 1, 1902 (32 Stat., 96).

An act to make oleomargarine and other imitation dairy products subject to the laws of any State or Territory or the District of Columbia into which they are transported, and to change the tax on oleomargarine, and to impose a tax, provide for the inspection, and to regulate the manufacture and sale of certain dairy products, and to amend an act entitled "An act defining butter, also imposing a tax upon and regulating the manufacture, sale, importation, and exportation of oleomargarine," approved August 2, 1886. Approved May 9, 1902; taking effect July 1, 1902 (32 Stat., 193).

New rate of tax on oleomargarine.

An act to provide for refunding taxes paid upon legacies and bequests for uses of a religious, charitable, or educational character, for the encouragement of art, etc., under the act of June 13, 1898, and for other purposes, approved June 27, 1902 (32 Stat., 406).

An act to amend the internal-revenue laws in regard to storekeepers and gaugers, approved June 28, 1902 (32 Stat., 492).

An act to amend the act of May 12, 1900, authorizing the Commissioner of Internal Revenue to redeem or make allowance for internal-revenue stamps, approved June 30, 1902 (32 Stat., 506).

An act to amend sections 3362 and 3394 of the Revised Statutes of the United States, relating to tobacco, approved July 1, 1902 (32 Stat., 714).

An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1903, and for other purposes, approved April 28, 1902 (32 Stat., 120).

Temporary clerks transferred to the classified service.

An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1903, and for other purposes, approved June 28, 1902 (32 Stat., 419).

An act to amend the internal-revenue laws, approved January 13, 1903 (32 Stat., 770).

Outage bill.

An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1904, and for other purposes, approved February 25, 1903 (32 Stat., 877).

Twenty additional revenue agents provided for in lieu of those provided for by sections 3 and 47 of the act of June 13, 1898.

An act making appropriation to supply deficiencies for the year ending June 30, 1903, and prior years, approved March 3, 1903 (32 Stat., 1040).

Relative to claims for rebate on packages of tobacco and snuff.

Fifty-eighth Congress.

An act to relieve obligors on bonds given to the United States upon the exportation to the Philippine Islands prior to November 20, 1901, of articles subject to internal-revenue tax, approved April 28, 1904 (33 Stat., 574).

An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1906, and for other purposes, approved February 3, 1905 (33 Stat., 631, 652).

Fifty-ninth Congress, first session.

An act making appropriations to supply urgent deficiencies in the appropriations for the fiscal year ending June 30, 1906, and for prior years, and for other purposes, approved February 27, 1906 (34 Stat., 49).

Expenditures in excess of appropriations forbidden.

An act for the withdrawal from bond, tax free, of domestic alcohol when rendered unfit for beverage or liquid medicinal uses by mixture with suitable denaturing materials, approved June 7, 1906; taking effect January 1, 1907 (34 Stat., 217).

Denatured alcohol act.

An act to amend existing laws relating to the fortification of pure sweet wines, approved June 7, 1906 (34 Stat., 215).

An act to amend the internal-revenue laws so as to provide for furnishing certified copies of certain records, approved June 21, 1906 (34 Stat., 387).

An act to provide means for the sale of internal-revenue stamps in the island of Porto Rico, approved June 29, 1906 (34 Stat., 620).

An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1907, and for other purposes, approved June 22, 1906 (34 Stat., 389).

An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1907, and for other purposes, approved June 30, 1906 (34 Stat., 697).

Fifty-ninth Congress, second session.

An act to amend an act entitled "An act for the withdrawal from bond tax free of domestic alcohol when rendered unfit for beverage or liquid medicinal uses by mixture with suitable denaturing materials," approved June 7, 1906. Approved March 2, 1907 (34 Stat., 1250).

An act making appropriations to supply deficiencies in the appropriations for the fiscal year ending June 30, 1907, and for prior years, and for other purposes, approved March 4, 1907, 11 a. m. (34 Stat., 1373).

Sixtieth Congress.

An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1909, and for other purposes, approved May 22, 1908 (35 Stat., 184).

An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1909, and for other purposes, approved May 27, 1908 (35 Stat., 317).

An act to provide for refunding stamp taxes paid under the act of June 13, 1898, upon foreign bills of exchange, etc., approved February 1, 1909 (35 Stat., 590).

An act to impose a tax upon alcoholic compounds coming from Porto Rico, and for other purposes, approved February 4, 1909 (35 Stat., 594).

An act making appropriations for the legislative, executive, and judicial expenses for the fiscal year ending June 30, 1910, and for other purposes, approved March 4, 1909 (35 Stat., 845).

Sixty-first Congress.

An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes, approved August 5, 1909 (36 Stat., 112, sec. 38).

"Payne-Aldrich bill." Excise tax on corporations.

An act making appropriations to supply urgent deficiencies in appropriations for the fiscal year 1909, and for other purposes, approved August 5, 1909 (36 Stat., 118).

An act to amend section 63 of the act of August 28, 1894 (28 Stat., 567), approved May 13, 1910 (36 Stat., 369).

An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1911, and for other purposes. Approved June 17, 1910 (36 Stat., 468).

An act to amend paragraph 2 of section 3264, Revised Statutes of the United States, as amended by section 5 of the act of March 1, 1879, and section 3285, Revised Statutes of the United States, as amended by section 3 of the act of May 28, 1880, approved June 22, 1910 (36 Stat., 590).

An act granting cumulative annual leave of absence to storekeepers, gaugers, and storekeeper-gaugers, with pay, approved June 23, 1910 (36 Stat., 592).

An act making appropriations to supply deficiencies in appropriations for the fiscal year 1910, and for other purposes, approved June 25, 1910 (36 Stat., 774, 780).

Additional force authorized to carry into effect provisions of the corporation tax act.

An act to amend the provisions of the act of March 3, 1885, limiting the compensation of storekeepers, gaugers, and storekeeper-gaugers in certain cases to \$2 a day, and for other purposes, approved February 24, 1911 (36 Stat., 928).

An act to amend the internal-revenue laws relating to distilled spirits, and for other purposes, approved March 2, 1911 (36 Stat., 1014).

An act to amend section 3287 of the Revised Statutes of the United States as amended by section 6 of chapter 108 of an act approved May 28, 1880, page 145, volume 21, United States Statutes at Large, approved March 2, 1911 (36 Stat., 1014). Amends section 3255 Revised Statutes.

An act to authorize the receipt of certified checks drawn on national and State banks for duties on imports and internal taxes, and for other purposes, approved March 2, 1911 (36 Stat., 965).

An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1912, and for other purposes, approved March 4, 1911 (36 Stat., 1170).

Sixty-second Congress, second session.

An act to provide for a tax upon white phosphorus matches, and for other purposes, approved April 9, 1912 (37 Stat., 81).

The provision as to tax took effect January 1, 1915. (T. D. 1766.)

An act to authorize the Director of the Census to collect and publish additional statistics of tobacco, approved April 30, 1912 (37 Stat. 106).

An act for the relief of scientific institutions or colleges of learning having violated section 3297, Revised Statutes, and Act May 3, 1878 (20 Stat., 48), and the regulations thereunder, approved June 4, 1912 (37 Stat., 122). (T. D. 1778.)

An act extending the time for the repayment of certain war-revenue taxes erroneously collected, approved July 27, 1912 (37 Stat., 240).

Time for filing claims for refund of legacy taxes extended to January 1, 1914. (T. D. 1802.)

An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1913, and for other purposes, approved August 23, 1912 (37 Stat., 360).

Number of collectors reduced to 63.

An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1913, and for other purposes, approved August 24, 1912 (37 Stat., 417).

Sixty-second Congress, third session.

An act amending section 3392, Revised Statutes, as amended by section 32 of the act of August 5, 1909, approved February 10, 1913 (37 Stat., 664).

Authorizing not to exceed 21 tax-free cigars per week for personal consumption of each employee of a cigar manufacturer.

An act to extend authority to receive certified checks drawn on national and State banks and trust companies in payment for duties on imports and internal taxes and all public dues, approved March 3, 1913 (37 Stat., 733).

An act to provide for refund or abatement under certain conditions of penalty taxes imposed by section 38 of the act of August 5, 1909, known as the special excise corporation-tax law, approved March 3, 1913 (37 Stat., 734). (T. D. 1838.)

An act to amend section 3186, Revised Statutes, approved March 4, 1913 (37 Stat., 1016).

Lien for unpaid taxes.

An act making appropriations for legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1914, and for other purposes, approved March 4, 1913 (37 Stat., 739).

Sixty-third Congress.

An act to reduce tariff duties and to provide revenue for the Government, and for other purposes, approved October 3, 1913 (38 Stat., 113).

Provides an income tax. Repeals corporation excise tax, act of August 5, 1909.

Imposes special excise tax on corporations to March 1, 1913.

Amends denatured-alcohol act.

Contains provisions relative to manufacture of articles in bonded warehouses; relative to articles coming into the United States from the Philippine Islands, and articles going from United States to Porto Rico and the Philippine Islands.

An act making appropriations to supply urgent deficiencies in appropriations for the fiscal year 1913, and for other purposes, approved October 22, 1913 (38 Stat., 208).

Deputy collectors and deputy marshals, who are required to give bond, may be appointed without regard to the civil-service act.

An act regulating the manufacture of smoking opium within the United States, and for other purposes, approved January 17, 1914 (38 Stat., 277). (T. D. 1940.)

An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1915, and for other purposes, approved July 16, 1914 (38 Stat., 454).

Number of collectors increased to 64 after October 1, 1914.

An act to levy and collect an income tax on railroads in Alaska and for other purposes, approved July 18, 1914 (38 Stat., 517).

An act to tax the privilege of dealing on exchanges, boards of trade, and similar places in contracts of sale of cotton for future

delivery, and for other purposes, approved August 18, 1914 (38 Stat., 693), (known as the "United States cotton futures act").

Superseded by the act of August 11, 1916; 39 Stat., 446.

An act to increase the internal revenue, and for other purposes, approved October 22, 1914 (38 Stat., 745).

Emergency revenue act, repealed by act of September 8, 1916; 39 Stat., 756.

An act to provide for the registration of, with collectors of internal revenue, and to impose a special tax upon all persons who produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations, and for other purposes, approved December 17, 1914 (38 Stat., 785).

An act to amend section 3246 of the Revised Statutes of the United States, as amended by section 5 of the act of March 1, 1879, approved March 3, 1915 (38 Stat., 893).

An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1916, and for other purposes, approved March 4, 1915 (38 Stat., 997).

An act to provide for the allowance of drawback of tax on articles shipped to the island of Porto Rico or to the Philippine Islands, approved March 4, 1915 (38 Stat., 1189).

Joint resolution to refund under certain conditions a portion of the offers in compromise for failure to make the return required under the act of October 3, 1913, said offers in compromise having been covered into the Treasury, and for other purposes, approved March 4, 1915 (38 Stat., 1225).

Sixty-fourth Congress.

Joint resolution extending the provisions of the act entitled "An act to increase the internal revenue, and for other purposes," approved October 22, 1914, to December 31, 1916, approved December 17, 1915 (39 Stat., 2).

An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1917, approved May 10, 1916 (39 Stat., 66).

An act to amend an act entitled "An act to amend an act entitled 'An act for the withdrawal from bond tax free of domestic alcohol when rendered unfit for beverage or liquid medicinal uses when mixed with suitable denaturing materials,'" approved March 2, 1917. Approved June 22, 1916 (39 Stat., 233).

Loss of alcohol in transit from a distillery bonded warehouse to a central denaturing bonded warehouse. (T. D. 2348.)

An act to amend existing laws relating to the use of alcohol, free of tax, by scientific institutions, or colleges of learning, approved July 8, 1916 (39 Stat., 354).

An act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1917, and for other purposes, approved August 11, 1916 (39 Stat., 446, 476).

Reenacts the cotton futures act. (T. D. 2358.)

An act to repeal an act approved March 2, 1895, entitled "An act to amend section 3 of an act entitled 'An act to regulate the liens of judgments and decrees of the courts of the United States, approved August 1, 1888.'" Approved August 23, 1916 (39 Stat., 531).

An act to amend subsection 11 of section 3244, Revised Statutes, approved September 7, 1916 (39 Stat., 740).

Manufacturers of tobacco and wholesale dealers or their agents not to be held as peddlers.

An act to increase the revenue and for other purposes, approved September 8, 1916 (39 Stat., 756).

This act, effective September 9, 1916, repealed the emergency revenue act of October 22, 1914, and joint resolution of December 17, 1915, except secs. 8 and 4 (special taxes), which remained in force until January 1, 1917. It amended the income-tax law by doubling the normal tax and making reclassification of rates for additional tax, and modifying some of the minor and administrative measures without disturbing the fundamental features of the previous law, and levied an estate tax, or tax on the transfer of net estates of persons dying after September 8, 1916, and imposed a munition manufacturers' tax.

Certain special taxes provided in the emergency revenue act of October 22, 1914, were reenacted. A special excise tax was imposed on corporations, known as the capital stock tax.

Dealers in leaf tobacco and dealers in tobacco were relieved from special taxes on and after January 1, 1917, and new rates were imposed upon manufacturers of tobacco, cigars, and cigarettes.

Changes were made in the wine taxes.

An act making appropriations to supply deficiencies in appropriations for the fiscal year ending June 30, 1916, and prior fiscal years, and for other purposes, approved September 8, 1916 (39 Stat., 801).

An act to provide increased revenue to defray the expenses of the increased appropriations for the Army and Navy and the extension of fortifications, and for other purposes, approved March 3, 1917 (39 Stat., 1000).

This act provided an excess profits tax and increased the estate tax 50 per cent.

Sixty-fifth Congress, first session.

An act making appropriations to supply deficiencies in appropriations for the fiscal year ending June 30, 1917, and prior fiscal years, and for other purposes, approved April 17, 1917 (40 Stat., 2).

An act to provide further for the national security and defense by encouraging the production, conserving the supply, and controlling the distribution of food products and fuel, approved August 10, 1917 (40 Stat., 273).

Food-control act. Sec. 15 relates to production of distilled spirits.

An act to provide revenue to defray war expenses, and for other purposes, approved October 3, 1917 (40 Stat., 300).

War-revenue act. This act provided an increase in the income tax and excess-profits tax and also in the estate tax. The tax on distilled spirits was increased to \$2.20 per gallon, and if withdrawn for beverage purposes, to \$3.20, and a tax was imposed on rectified spirits. The tax on wines was increased and taxes were imposed on sirups, soft drinks, carbonated beverages, etc. The tax on fermented liquors was made double the rate under the previous law.

Additional taxes were imposed on cigars, tobacco, and manufactures thereof.

A war tax was imposed on facilities furnished by public utilities, taking effect November 1, 1917, viz., on amounts paid for freight and express transportation, transportation of persons, on seats, berths, and staterooms in parlor cars, sleeping cars, or on vessels, on transportation of oil by pipe lines, and on telephone messages and telegrams for which a charge of 15 cents is made. Taxes were also imposed on life, fire, marine, and casualty insurance.

Taxes were imposed on automobiles, motor cycles, piano players, graphophones, phonographs and records, moving-picture films, jewelry (real or imitation), yachts, pleasure boats, power boats, etc., sporting goods, cameras, perfumery and cosmetics, and other similar articles, proprietary medicines, and chewing gum, on admissions to entertainments, also on club dues.

Stamp taxes, taking effect December 1, 1917, were imposed on bonds, issues of capital stock, sales or transfers of capital stock, sales of produce on exchange, promissory notes, conveyances and other documents, parcel-post packages, passage tickets, and an additional tax on playing cards.

An act making appropriations to supply urgent deficiencies in appropriations for the fiscal year ending June 30, 1918, and prior fiscal years, on account of war expenses, and for other purposes, approved October 6, 1917 (40 Stat., 345).

Sixty-fifth Congress, second session.

An act to amend an act approved September 24, 1917, entitled "An act to authorize an additional issue of bonds to meet expenditures for the national security and defense, and for the purpose of assisting in the prosecution of the war, to extend additional credit to foreign Governments, and for other purposes," approved April 4, 1918 (40 Stat., 502).

Third Liberty loan act, section 6. United States bonds bearing interest at a higher rate than 4 per cent to be accepted at par and accrued interest in payment of estate tax. (T. D. 2705.)

An act to provide further for the national security and defense, and for the purpose of assisting in the prosecution of the war, to provide credits for industries and enterprises in the United States necessary or contributory to the prosecution of the war, and to supervise the issuance of securities, and for other purposes, approved April 5, 1918 (40 Stat., 506).

Section 18. Exemption of certain bonds from taxation.

Section 301. Exemption of certain promissory notes from taxation.

An act to provide revenue, and for other purposes, approved February 24, 1919 (40 Stat., 1057).

This act repealed Titles I, II, III, and IV of the act of September 8, 1916, Title III, and section 402 of the act of March 3, 1917, and Titles I to X, and XII of the act of October 3, 1917, subject to certain limitations, and imposed an income tax, a war-profits and excess-profits tax, an estate tax, a tax on transportation and other facilities, on insurance, on beverages, on tobacco and manufacturers thereof, on admissions and dues, an excise tax, a special tax on occupations, stamp taxes and a tax on employment of child labor. The act also created a board to be known as the "Advisory Tax Board," to be composed of six members, and to which might be submitted questions relating to the interpretation or administration of the income, war-profits, or excess-profits tax law. This Board was dissolved by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, at close of business September 30, 1919.

Sixty-sixth Congress, first session.

An act to prohibit intoxicating beverages, and to regulate the manufacture, production, use, and sale of high-proof spirits for other than beverage purposes, and to insure an ample supply of alcohol and promote its use in scientific research and in the development of fuel, dye, and other lawful industries, approved October 28, 1919 (41 Stat., —).

PROVISIONS RELATIVE TO ACTS OF REPEAL.

SEC. 12, R. S. Whenever an act is repealed, which repealed a former act, such former act shall not thereby be revived, unless it shall be expressly so provided.

SEC. 13, R. S. The repeal of any statute shall not have the effect to release or extinguish any penalty, forfeiture, or liability incurred under such statute, unless the repealing act shall so expressly provide, and such statute shall be treated as still remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of such penalty, forfeiture, or liability.

This provision (sec. 13, R. S.) has been upheld by the courts as a rule of construction applicable, when not otherwise provided, as a general saving clause to be read and construed as a part of all subsequent repealing statutes, in order to give effect to the will and intent of Congress. (*Hertz v. Woodman*, 218 U. S., 205 (T. D. 1636), quoting *United States v. Reisinger*, 128 U. S., 398; *Great Northern Ry. Co. v. United States*, 208 U. S., 452).

Repeals by implication are not favored, particularly in revenue laws, and will only be held to exist when the repugnance is positive, and then only to the extent of the repugnance. (*United States v. 100 Barrels Spirits*, 12 Int. Rev. Rec., 153.)

Nothing is better settled than that repeals, and the same may be said of annulments, by implication, are not favored by the courts, and that no statute will be construed as repealing a prior one, unless so clearly repugnant thereto as to admit of no other reasonable construction. (*Cope v. Cope*, 137 U. S., 682, and cases cited.)

A later statute covering the whole subject-matter of a former one where the objects of the two statutes are the same operates as a repeal. (*United States v. Claflin*, 97 U. S., 546. See also *United States v. Tynen*, 11 Wall., 88.)

When a later statute is a complete revision of the subject to which the earlier statute related and the new legislation was manifestly intended as a substitute for the former legislation, the prior act must be held to have been repealed. (*United States v. Ranlett and Stone*, 172 U. S., 133.)

INTERNAL REVENUE COLLECTION DISTRICTS IN THE UNITED STATES, WITH LOCATION OF COLLECTORS' OFFICES.

- Alabama*.—Collector's office, Birmingham.
Alaska.—(Part of Washington District.)
Arizona.—Collector's office, Phoenix.
Arkansas.—Collector's office, Little Rock.
California.—First district, collector's office, San Francisco; sixth district, collector's office, Los Angeles.
Colorado.—Collector's office, Denver.
Connecticut.—Collector's office, Hartford.
Delaware.—Collector's office, Wilmington.
District of Columbia.—(Part of Maryland District.)
Florida.—Collector's office, Jacksonville.
Georgia.—Collector's office, Atlanta.
Hawaii.—Collector's office, Honolulu.
Idaho.—Collector's office, Boise.
Illinois.—First district, collector's office, Chicago; eighth district, collector's office, Springfield.
Indiana.—Collector's office, Indianapolis.
Iowa.—Collector's office, Dubuque.
Kansas.—Collector's office, Wichita.
Kentucky.—Collector's office, Louisville.
Louisiana.—Collector's office, New Orleans.
Maine.—Collector's office, Augusta.
Maryland.—Collector's office, Baltimore.
Massachusetts.—Collector's office, Boston.
Michigan.—First district, collector's office, Detroit; fourth district, collector's office, Grand Rapids.
Minnesota.—Collector's office, St. Paul.
Mississippi.—Collector's office, Jackson.
Missouri.—First district, collector's office, St. Louis; sixth district, collector's office, Kansas City.
Montana.—Collector's office, Helena.
Nebraska.—Collector's office, Omaha.
**Nevada*.—(Part of first district of California.)
New Hampshire.—Collector's office, Portsmouth.
New Jersey.—First district, collector's office, Camden; fifth district, collector's office, Newark.
New Mexico.—Collector's office, Albuquerque.
New York.—First district, collector's office, Brooklyn; second district, collector's office, New York; fourteenth district, collector's office, Albany; twenty-first district, collector's office, Syracuse; twenty-eighth district, collector's office, Buffalo.

* The district of Nevada, with headquarters at Reno, will be established Apr. 1, 1920, or later.

North Carolina.—Collector's office, Raleigh.

****North and South Dakota**.—Collector's office, Aberdeen, S. Dak.

Ohio.—First district, collector's office, Cincinnati; tenth district, collector's office, Toledo; eleventh district, collector's office, Columbus; eighteenth district, collector's office, Cleveland.

Oklahoma.—Collector's office, Oklahoma City.

Oregon.—Collector's office, Portland.

Pennsylvania.—First district, collector's office, Philadelphia; twelfth district, collector's office, Scranton; twenty-third district, collector's office, Pittsburgh.

Rhode Island.—Collector's office, Providence.

South Carolina.—Collector's office, Columbia.

****South Dakota**.—(Part of district of North and South Dakota.)

Tennessee.—Collector's office, Nashville.

Texas.—Collector's office, Austin.

Utah.—Collector's office, Salt Lake City.

Vermont.—Collector's office, Burlington.

Virginia.—Second district, collector's office, Richmond; sixth district, collector's office, Roanoke.

Washington.—Collector's office, Tacoma.

West Virginia.—Collector's office, Parkersburg.

Wisconsin.—Collector's office, Milwaukee.

Wyoming.—Collector's office, Cheyenne.

****** The district of North Dakota, with headquarters at Fargo, will be established Apr. 1, 1920, or later. From the date of the establishment of the new district of North Dakota, the present district of North and South Dakota will be known as the district of South Dakota, with headquarters remaining at Aberdeen, S. Dak.

LIST OF INTERNAL REVENUE REGULATIONS.¹

No.	Subject.
1.....	Assessments.
2.....	Officers' accounts.
3.....	Legacies and distributive shares, act of June 13, 1898.
3, Supplement No. 1.....	Legacies and distributive shares.
4.....	Exportation. (Revised and embodied in Reg. No. 29.)
5.....	Special bonded warehouses for storage of brandy made from apples, peaches, grapes, pears, pineapples, oranges, apricots, berries, or prunes, exclusively.
6.....	Fermented liquor.
7.....	Distilled spirits.
7, Supplement No. 1.....	Gauging, marking, and stamping of distilled spirits by rectifiers under act of Mar. 4, 1915.
8.....	Tobacco, snuff, and cigars.
9.....	Oleomargarine.
10.....	Exportation. (Revised and embodied in Reg. No. 29.)
11.....	Gauger's Manual.
11, Supplement No. 1.....	Gauger's Weighing Manual.
12.....	Revenue officers, district attorneys, marshals, etc.
13.....	Exportation. (Revised and embodied in Reg. No. 29.)
14.....	Abatement and refunding of taxes.
15.....	Food. (Superseded by Agricultural Department ruling.)
16.....	Smoking opium, act of Jan. 17, 1914. (T. D. 2211.)
17.....	Sugar bounty. (Obsolete.)
18.....	Chinese, resident in United States. (Superseded by regulations of Department of Commerce and Labor.)
19.....	Exportation. (Revised and embodied in Reg. No. 29.)
20.....	Establishment of general bonded warehouses for the storage of spirits made from materials other than fruit and the transportation and exportation thereof in bond.
20, Supplement No. 1.....	Bonds, Form 351, and order, etc., used in transfer to general bonded warehouses.
21.....	Income tax. (Declared unconstitutional and reenacted. See Regs. No. 31 and No. 33.)
22.....	Filled cheese.
23.....	Bottling of distilled spirits in bond under act of Mar. 3, 1897.
24.....	Exportation of articles described in Schedule B, act of Oct. 22, 1914.
25.....	Mixed flour. (Act of June 13, 1898.)
26.....	Documentary and proprietary stamps under act of June 13, 1898.
27.....	Allowance for, and redemption of, internal-revenue stamps.
27, Supplement No. 1.....	Allowance for, and redemption of, internal-revenue stamps.
28.....	Withdrawal of wine spirits or grape brandy.
28, Supplement No. 1.....	Withdrawal and use of wine spirits or grape brandy.
29.....	Exportation free of tax, or with benefit of drawback, of distilled spirits, fermented liquors, etc.
30.....	Denatured alcohol.
31.....	Excise tax on corporations, etc., imposed by section 38, act of Aug. 5, 1909.
32.....	White phosphorus matches.
33.....	Income taxes. (Acts of Sept. 8, 1916, and Oct. 3, 1917.) (T. D. 2690.)
34.....	Withdrawal of oleomargarine, etc., free of tax for use of the United States.
35.....	Production, importation, manufacture, compounding, sale, dispensing, or giving away of opium or coca leaves, their salts, derivatives, or preparations.
36.....	Contracts of sale of cotton for future delivery made on an exchange. (T. D. 2139.)
37.....	Estate tax.
38.....	Capital stock tax. (Act of Sept. 8, 1916.) (T. D. 2750.)
39.....	Excise tax on manufacturers in the United States of certain munitions and parts thereof.
40.....	Collection of tax on transfers of stock and on sales of products for future delivery.
40 (Revised.).....	Stamp tax on issues, sales, and transfers of stock and sales of products for future delivery under revenue act of 1918.
41.....	War excess profits tax. (Act of Oct. 3, 1917.) (T. D. 2694.)
42.....	Transportation of persons and property. (Act of Oct. 3, 1917.) (T. D. 2676.)
43.....	Tax on admissions and dues. (T. D. 2681.)
44.....	War excise taxes and war tax on nonalcoholic beverages. (T. D. 2719.)
45.....	Income tax and war-profits and excess-profits tax.

¹ Regulations issued by the Secretary of the Treasury with reference to the internal revenue and for the government of the officers of the revenue bureau have the force and effect of law and are as binding as if incorporated in the statute law of the United States. (Stegall v. Thurman, 175 Fed., 813; T. D. 1616.) But see cases cited, pp. 52, 53.

Regulations made by the Commissioner pursuant to statutory authority, with the approval of the Secretary of the Treasury, in respect to the assessment and collection of internal revenue, have the force of statutes; and the acts of the Commissioner are presumed to be the acts of the Secretary. (In re Huttman, 70 Fed., 699.)

No.	Subject.
46.....	Tax on the employment of child labor. (T. D. 2823.)
47.....	Excise taxes on sales by the manufacturer.
48.....	Excise taxes on works of art and jewelry.
49.....	Collection of tax on transportation and other facilities.
50.....	Capital stock tax under the revenue act of 1918.
51.....	Excise taxes on toilet and medicinal articles.
52.....	Tax on soft drinks and other beverages sold in bottles or other closed containers.
53.....	Tax on soft drinks, ice cream, and similar articles sold at soda fountains or similar places of business.
54.....	Excise taxes on sales by the dealer of wearing apparel, etc.
55.....	Stamp taxes on documents (except on issue, sales, and transfers of certificates of stock and sales of products for future delivery.)
56.....	Collection of tax on motion-picture films.
57.....	Tax on telegraph, telephone, radio, and cable facilities.
58.....	Tax on the issuance of insurance policies.
59.....	Special tax upon business and occupations, and upon use of boats. (T. D. 2983.)
60.....	Manufacture, sale, etc., of intoxicating liquor. (T. D. 2985.)
61.....	Production, etc., of industrial alcohol, and manufacture, etc., of denatured alcohol. (T. D. 2986.)

INTERNAL REVENUE LAWS.

OFFICE OF INTERNAL REVENUE, ORGANIZATION, APPROPRIATIONS, ETC.

[The sections enumerated in this compilation are from the Revised Statutes of the United States, unless otherwise indicated.]

Sec.	Sec.
319. Commissioner of Internal Revenue.	320. Chief clerk.
1300. Act of February 24, 1919. Salary of Commissioner.	173-174. Duties of chief clerk.
321. Duties of Commissioner.	Appropriation acts. Officers and employees. Reports. Hours of labor.
3671. Estimates of expenses of collecting internal revenue.	239. Accounts of receipts of internal revenue, how kept.
Estimates and statement of receipts and expenditures.	3. Act April 28, 1902. Temporary clerks transferred to classified service.
322. Deputy commissioner.	251. Rules, regulations, and forms.
Act of October 3, 1913. Additional deputy.	261. Report to Congress by Secretary of moneys received.
1301 (a). Act of February 24, 1919. Deputies and assistant.	196. Annual report of head of department.
323. Duties of deputy commissioner.	3. Act of July 1, 1916. Time for furnishing annual reports to Public Printer.
1. Act of October 6, 1917. Assignment of deputy commissioners.	
349. Solicitor of Internal Revenue.	

SEC. 319. There shall be in the Department of the Treasury a Commissioner of Internal Revenue, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be entitled to a salary of six thousand dollars a year.

12 Op. Atty. Gen., 443; 8 Int. Rev. Rec., 54.

SEC. 1300. [Act of February 24, 1919 (40 Stat., 1057).] Hereafter the salary of the Commissioner shall be \$10,000 a year. The difference between the amount appropriated under existing law and the salary herein established shall, for the period between the passage of this Act and July 1, 1919, be paid out of the appropriations for collecting internal revenue.

SEC. 321. The Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, shall have general superintendence of the assessment and collection of all duties and taxes now or hereafter imposed by any law providing internal revenue; and shall prepare and distribute all the instructions, regulations, directions, forms, blanks, stamps, and other matters pertaining to the assessment and collection of internal revenue; and shall provide hydrometers, and proper and sufficient ad-

Commissioner of Internal Revenue.

Salary of Commissioner.

Duties of Commissioner of Internal Revenue.

hesive stamps and stamps or dies for expressing and denoting the ~~several stamp duties~~, or, in the case of percentage duties, the amount thereof; and alter and renew or replace such stamps from time to time, as occasion may require. He may also contract for or procure the printing of requisite forms, decisions, and regulations, but the printing of such forms, decisions, and regulations shall be done at the Public Printing Office, unless the Public Printer shall be unable to perform the work: *Provided*, That the Commissioner of Internal Revenue may, under such regulations as may be established by the Secretary of the Treasury, after due public notice, receive bids and make contracts for supplying stationery, blank-books, and blanks to the collectors in the several collection-districts; and the said Commissioner shall estimate in detail by collection-districts the expense of assessing and the expense of the collection of internal revenue.

The various duties of the Commissioner are set forth in appropriate places in the chapters relating to the different subjects.

See, as to stamps, sections 3238, 3312, 3328, 3341, 3369, 3395, 3445, 3446, and other sections.

Commissioner to make assessments. (See sec. 3182 R. S. and notes, p. 112.)

It is the duty of the Commissioner to see that the laws relating to collection of internal revenue taxes are faithfully executed. He has the right to order seizures. (*Agnew v. Haymes*, 141 Fed., 631; T. D. 955.)

Commissioner to make regulations to carry out the law as made necessary by reason of changes in the law (sec. 3447, p. 590).

In the matter of regulations, section 161 of the Revised Statutes provides: "The head of each executive department is authorized to prescribe regulations, not inconsistent with law, for the government of his department, the conduct of its officers and clerks, the distribution and performance of its business, and the custody, use, and preservation of the records, papers, and property appertaining to it."

Distinction between "instructions" and "regulations." (*Landram v. United States*, 16 Ct. Cls., 74; 27 Int. Rev. Rec., 80.)

A regulation made in pursuance of an act of Congress has the force of law. (*United States v. Ellason*, 16 Pet., 291; *Ex parte Reed*, 100 U. S., 13; *United States v. Barrows et al.*, 10 Int. Rev. Rec., 86; *Harvey v. United States*, 3 Ct. Cls., 38; *Stotesbury v. United States*, 23 Ct. Cls., 292; 22 Op. Atty. Gen., 570.)

Scope and effect of regulations of the department. (In *re Kollock*, 165 U. S., 526; 43 Int. Rev. Rec., 170; *United States v. Symonds*, 120 U. S., 46; *Wilkins v. United States*, U. S. Circuit Court of Appeals, 1890, 96 Fed., 837; T. D. 21623; *Sprinkle v. United States*, 141 Fed., 811; T. D. 958; *Stegall v. Thurman*, 175 Fed., 813; T. D. 1616.)

Right to make regulations depends on what Secretary considers necessary. (27 Op. Atty. Gen., 88.)

Secretary of Treasury can not make regulations which will defeat the law. (*Campbell v. United States*, 107 U. S., 410.)

Regulations made by the Commissioner pursuant to the statutory authority, with the approval of the Secretary of the Treasury, in respect to the assessment and collection of

internal revenue, have the force of statutes; and the acts of the Commissioner are presumed to be the acts of the Secretary. (In re Huttman, 70 Fed., 699.)

In *United States v. Eaton*, 144 U. S., 677, it was held that "a sufficient statutory authority should exist for declaring any act of omission a criminal offense." Regulations prescribed by law may have in a proper sense the force of law, but when the statute does not distinctly make the neglect to do the thing required a criminal offense a regulation can not have that effect.

While department regulations duly promulgated have the force of law, in a limited sense, they can not enlarge or restrict the liability of an officer on his bond. (*Meads v. United States*, 81 Fed., 684.)

Regulations can not change the positive provisions of law. (*United States v. Two Hundred Barrels of Whisky*, 95 U. S., 571; 24 Int. Rev. Rec., 3; *Morrill v. Jones*, 106 U. S., 467; *United States v. Three Barrels*, 77 Fed., 963.)

An order from the proper executive department is sent with approval of the head of the department unless the contrary appears. (*Medkirk v. United States*, 45 Ct. Cls., 395.)

Binding force of departmental construction of statute. (*Schell's Executors v. Fauche*, 138 U. S. 562, 572. See *Cornell v. Coyne*, 192 U. S., 418.)

Authority to make regulations does not confer legislative power. (*United States v. 11,150 Pounds of Butter*, 188 Fed., 157; 195 Fed., 657.)

That Congress can not delegate legislative power to any executive official is elementary. (*Coopersville Cooperative Creamery Co. v. Lemon*, 163 Fed., 145, T. D. 1371, citing *Field v. Clark*, 143 U. S., 649.)

Federal courts will take judicial notice of regulations prescribed in pursuance of law. (*Caha v. United States*, 152 U. S., 211; *Wilkins v. United States*, 96 Fed., 837; T. D. 21623, 1889; *Dominici v. United States*, 72 Fed., 46.)

While a regulation may have the force of law, printed headings on a form, additional to the expressed terms of the regulation, do not have the force of law. (*United States v. Lamson*, 162 Fed., 168.)

A regulation promulgated by the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, prohibiting collectors from producing the records of their offices or furnishing copies thereof for the use of third persons or for use as evidence in behalf of litigants in any court, is a valid and binding regulation. (In re *Comingore*, Collector, 1889, 96 Fed., 552; T. D. 21584; *Boske v. Comingore*, 177 U. S., 459; T. D. 104.)

By section 161, Revised Statutes, the head of each department is authorized to prescribe regulations as to the custody, use, and preservation of the records and papers appertaining to it and may decline to furnish copies. (25 Op. Atty. Gen., 326; see sec. 882 and notes, p. 644, Appendix.)

Duties of executive departments are ministerial rather than judicial. (10 Op. Atty. Gen., 62.)

Act authorizing the President to consolidate bureaus and offices in the interest of economy and efficiency, approved May 20, 1918. (Executive Order No. 2877, May 31, 1918.)

Typewriters, adding machines, and other mechanical devices not to be installed without written permission of Commissioner. (T. D. 1693.)

SEC. 3671. The Commissioner of Internal Revenue shall estimate in detail, by collection-districts, the expense of assessing and the expense of the collection of internal revenue.

Estimates of expenses of collecting internal revenue.

revenue, and submit the same to Congress at the commencement of each regular session.

Estimates.

SEC. 5. [*Extract from the legislative, executive, and judicial appropriation act for the fiscal year ending June 30, 1902, approved March 3, 1901 (31 Stat., 982, 1009).*] Hereafter it shall be the duty of the heads of the several Executive Departments, and of other officers authorized or required to make estimates, to furnish to the Secretary of the Treasury, on or before the fifteenth day of October of each year, their annual estimates for the public service, to be included in the Book of Estimates prepared by law under his direction, * * *

[*Extract from the legislative, executive, and judicial appropriation act for the fiscal year ending June 30, 1907, approved June 22, 1906 (34 Stat., 448).*]

SEC. 4.

Hereafter the heads of the several Executive Departments and all other officers authorized or required to make estimates for the public service shall include in their annual estimates furnished the Secretary of the Treasury for inclusion in the Book of Estimates all estimates of appropriations required for the service of the fiscal year for which they are prepared and submitted, and special or additional estimates for that fiscal year shall only be submitted to carry out laws subsequently enacted, or when deemed imperatively necessary for the public service by the Department in which they shall originate, in which case such special or additional estimate shall be accompanied by a full statement of its imperative necessity, and reasons for its omission in the annual estimates.

[*Extract from the legislative, executive and judicial appropriation act of Feb. 26, 1907 (34 Stat., 949).*]

The Secretary of the Treasury shall each year prepare and submit in his annual report to Congress estimates of the public revenue and the public expenditures for the fiscal year current, and also for the fiscal year next ensuing at the time said report is submitted, together with a statement of the receipts and expenditures of the Government for the preceding completed fiscal year.

Statement to be submitted in Annual Book of Estimates. Act of August 1, 1914. (38 Stat., 690.)

Submission of estimates of appropriations for the Annual Book of Estimates. (Dept. Cir. No. 62, June 15, 1918.)

[*Extract from the sundry civil appropriation act for 1910. Act of March 4, 1909. (35 Stat., 1027).*]

SEC. 7. Immediately upon the receipt of the regular annual estimates of appropriations needed for the various branches of the Government it shall be the duty of the Secretary of the Treasury to estimate as nearly as may be the revenues of the Government for the ensuing fiscal year, and if the estimate for appropriations, including the estimated amount necessary to meet all continuing and permanent appropriations, shall exceed the estimated revenues the Secretary of the Treasury shall transmit the estimates to Congress as heretofore required by law and at once transmit a detailed statement of all of said estimates to the President, to the end that he may, in giving Congress information of the state of the Union and in recommending to their consideration such measures as he may judge necessary, advise the Congress how in his judgment the estimated appropriations could with least injury to the public service be reduced so as to bring the appropriations

within the estimated revenues, or, if such reduction be not in his judgment practicable without undue injury to the public service, that he may recommend to Congress such loans or new taxes as may be necessary to cover the deficiency.

Department Circular No. 62, July 14, 1917, relating to the submission of estimates of appropriations for the Annual Book of Estimates and to schedules of expenditures to accompany the same.

Sec. 322. There shall be in the office of the Commissioner of Internal Revenue a Deputy Commissioner of Internal Revenue, who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be entitled to a salary of three thousand five hundred dollars a year.

Deputy Commissioner of Internal Revenue.

By act approved January 29, 1874 (18 Stat., 6), it is provided that this "Office of Deputy Commissioner of Internal Revenue * * * be, and the same is hereby, abolished; and that the Secretary of the Treasury may, upon the recommendation of the Commissioner of Internal Revenue, designate one of the two remaining deputy commissioners as first deputy commissioner, who shall perform the duties and be paid only the salary prescribed for the office of deputy commissioner hereby abolished."

The legislative, executive, and judicial appropriation act of April 17, 1900 (31 Stat., 103), made appropriation for a deputy commissioner at \$4,000 and provided for an additional deputy at \$3,600.

See section 235, Revised Statutes, and Supplement to Revised Statutes, volume 1, page 3.

(13 Op. Atty. Gen., 512; 15 Op. Atty. Gen., 6.)

Sec. II [*Par. N, Act of October 3, 1913 (38 Stat., 114, 180). Extract.*] In the office of the Commissioner of Internal Revenue at Washington, District of Columbia, there shall be appointed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, one additional deputy commissioner, at a salary of \$4,000 per annum; * * *

Additional Deputy.

SEC. 1301 (a). [*Act of February 24, 1919 (40 Stat., 1057).*] Hereafter there may be employed in the Bureau of Internal Revenue, in lieu of the deputy commissioners whose salaries are now fixed by law, five deputy commissioners and an assistant to the Commissioner, who shall each receive a salary of \$5,000 a year, payable monthly. The assistant to the Commissioner may be authorized by the Commissioner to perform any duties which the deputy commissioners may perform under existing law.

Additional deputies and assistant to Commissioner.

Sec. 323. The Deputy Commissioner of Internal Revenue shall be charged with such duties in the office of the Commissioner of Internal Revenue as may be prescribed by the Secretary of the Treasury, or by law, and shall act as Commissioner of Internal Revenue in case of the absence of that officer.

Duties of Deputy Commissioner of Internal Revenue.

Vacancies occurring by death, resignation, absence, or sickness of chief of a bureau, how temporarily filled. (Secs. 178, 179, 180, R. S.)

SEC. 1. [*Act of October 6, 1917 (40 Stat., 348).* *Urgent deficiency appropriation act.*]

Assignment of deputy commissioners.

The Commissioner of Internal Revenue is authorized to assign to deputy commissioners such duties as he may prescribe, and the Secretary of the Treasury may designate any one of them to act as Commissioner of Internal Revenue during the Commissioner's absence.

Solicitor of Internal Revenue.

SEC. 349. There shall be in the Department of Justice * * * a Solicitor of Internal Revenue, * * * who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be entitled to the following salaries: * * * Solicitor of Internal Revenue to five thousand dollars a year, * * *.

A Solicitor of Internal Revenue was added to the Internal Revenue Office corps by the act of July 13, 1866 (14 Stat., 170), but by the act of June 22, 1870 (16 Stat., 162), organizing the Department of Justice, the Solicitor was formally transferred to that department. He is the law officer and law adviser of the Commissioner. The only duties of which mention is made by law are in connection with compromise cases (Sec. 3229, p. 149).

Chief clerk.

SEC. 320. The Commissioner of Internal Revenue is authorized to designate one of the heads of division as chief clerk of the Bureau without additional compensation.

Chief clerk to supervise duties of other clerks.

SEC. 173. Each chief clerk in the several Departments and Bureaus, and other offices connected with the Departments, shall supervise, under the direction of his immediate superior, the duties of the other clerks therein, and see that they are faithfully performed.

Chief clerk to distribute duties.

SEC. 174. Each chief clerk shall take care, from time to time, that the duties of the other clerks are distributed with equality and uniformity, according to the nature of the case. He shall revise such distribution from time to time for the purpose of correcting any tendency to undue accumulation or reduction of duties, whether arising from individual negligence or incapacity, or from increase or diminution of particular kinds of business. And he shall report monthly to his superior officer any existing defect that he may be aware of in the arrangement or dispatch of business.

Section 175 directs what action the chief of a bureau or other superior officer shall take upon receiving the monthly report of his chief clerk, rendered pursuant to section 174.

Section 166, Revised Statutes, as amended by act of May 28, 1896 (29 Stat., 140), provides in regard to distribution of clerks and details.

Chief clerk authorized to administer oaths to accounts for travel or other expenses against the United States. (Sundry civil appropriation act, sec. 8; act of Aug. 24, 1912; 37 Stat. 417. See p. 95.)

APPROPRIATION ACTS.

Monthly reports on condition of business.

SEC. 7. [*Act of March 15, 1898 (30 Stat., 316).* *Legislative, executive, and judicial appropriation act for 1899.*]
* * * Hereafter it shall be the duty of the head of

each Executive Department to require monthly reports to be made to him as to the condition of the public business in the several bureaus or offices of his Department at Washington; and in each case where such reports disclose that the public business is in arrears, the head of the Department in which such arrears exist shall require, as provided herein, an extension of the hours of service to such clerks or employees as may be necessary to bring up such arrears of public business.

Hereafter it shall be the duty of the head of each Executive Department, or other Government establishment at the seat of government, not under an Executive Department, to make at the expiration of each quarter of the fiscal year a written report to the President as to the condition of the public business in his Executive Department or Government establishment, and whether any branch thereof is in arrears. Quarterly reports.

The Secretary of the Treasury to report to Congress officers delinquent in rendering accounts. (Sec. 12, act of July 31, 1894, as amended, p. 665.)

The Bureau of Efficiency shall investigate the methods of transacting the public business in the Bureau of Internal Revenue and prepare recommendations for the improvement thereof and submit the same to the Secretary of the Treasury as early as practicable for his approval and to Congress at its next session. (Act of Sept. 8, 1916; 39 Stat., 804.)

Regulations pertaining to administrative accounting. (T. D. 2872.)

SEC. 4. [Act of July 1, 1916 (39 Stat., 262, 336). *Sundry civil appropriation act for 1916-17.*] That the information acquired in connection with estimates for general or lump-sum appropriations by section ten of the sundry civil appropriation act, approved August first, nineteen hundred and fourteen, shall be submitted hereafter according to uniform and concise methods which shall be prescribed by the Secretary of the Treasury, but with reference to estimates for pay of mechanics and laborers there shall be submitted in detail only the ratings and trades and the rates per diem paid or to be paid. Estimates for lump-sum appropriations.

Sundry civil appropriation act. August 1, 1914 (38 Stat., 680), section 10, amends section 6 of the sundry civil appropriation act, approved August 24, 1912, requiring in the Annual Book of Estimates following every estimate for a general or lump-sum appropriation (except public buildings or other public works constructed under contract) a statement showing the number of persons intended to be employed and the rates of compensation to each and the number employed and the compensation paid each out of the corresponding appropriation for preceding fiscal year.

SEC. 7. [Act of August 24, 1913 (37 Stat., 487).] Regular appropriations are restricted to fiscal year unless otherwise provided. Fiscal year.

[Extracts from "An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June thirtieth, nineteen hundred and nineteen, and for other purposes, approved July 3, 1918 (40 Stat., 757).]

SEC. 1. * * *

COLLECTING INTERNAL REVENUE.

Salaries and expenses.

For salaries and expenses of collectors of internal revenue, deputy collectors, surveyors, clerks, messengers, and janitors in internal-revenue offices, \$3,565,000: *Provided*, That no part of this amount be used in defraying the expenses of any officer, designated above, subpoenaed by the United States court to attend any trial before a United States court or preliminary examination before any United States commissioner, which expenses shall be paid from the appropriation for "Fees of witnesses, United States courts."

For salary and expenses of forty revenue agents provided for by law, fees and expenses of gaugers, and salaries and expenses of storekeepers and storekeeper-gaugers, \$1,200,000.

Collecting income tax.

Collecting the income tax: For expenses of assessing and collecting the income tax as provided in Title I of an Act entitled "An Act to increase the revenue, and for other purposes," approved September eighth, nineteen hundred and sixteen, and subsequent Acts, including the employment of agents, inspectors, deputy collectors, clerks, and messengers in the District of Columbia, and the several collection districts, to be appointed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, and the purchase of such supplies, equipment, mechanical devices, and other articles as may be necessary for use in the District of Columbia and the several collection districts, \$3,000,000: *Provided*, That not more than \$215,000 of the foregoing sum may be used for the employment, in the Bureau of Internal Revenue in the District of Columbia, of necessary clerical and other personal services, and the purchase of such supplies, equipment, mechanical devices, and other articles as may be necessary for use in the District of Columbia.

Assessing and collecting tax under act October 3, 1917.

For expenses of assessing and collecting the internal-revenue taxes, as provided in an Act entitled "An Act to provide revenue to defray war expenses, and for other purposes," approved October third, nineteen hundred and seventeen, including the employment of necessary officers, attorneys, experts, agents, inspectors, deputy collectors, clerks, janitors, and messengers in the District of Columbia and the several collection districts, to be appointed as provided by law, telegraph and telephone service, rental of quarters, postage, and the purchase of such supplies, equipment, mechanical devices, printing, stationery, law books and books of reference, and such other articles as may be necessary for use in the District of Columbia and the several collection districts, \$8,000,000: *Provided*, That not more than \$500,000 of the total amount appropriated herein may be expended by the Commissioner of Internal Revenue for detecting and bringing to trial persons guilty of violating the internal-revenue laws or conniving at the

same, including payments for information and detection of such violations: *Provided further*, That not more than \$1,172,000 of the total amount appropriated herein may be expended in the Bureau of Internal Revenue, in the District of Columbia.

Collecting the cotton-futures tax: For expenses to enforce the provisions of part A of the Act approved August eleventh, nineteen hundred and sixteen, known as the cotton-futures Act, including the employment of attorneys, agents, inspectors, deputy collectors, clerks, and messengers at rates to be fixed by the Commissioner of Internal Revenue, subject to the approval of the Secretary of the Treasury, and for the purchase of such supplies, equipment, mechanical devices, and other articles as may be necessary, \$20,000: *Provided*, That no person shall be employed hereunder at a compensation exceeding \$4,000 per annum.

Cotton futures.

Collecting the tax on estates, munitions, and so forth: For expenses of assessing and collecting the tax as provided by Titles I, II, and III, of an Act entitled "An Act to increase the revenue, and for other purposes," approved September eighth, nineteen hundred and sixteen, and subsequent Acts, and to pay such sums as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may deem necessary, \$340,000; and the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is authorized to appoint and pay from this appropriation all necessary officers, experts, agents, inspectors, deputy collectors, clerks, messengers, and janitors, and to rent such quarters, incur expense for telephone service, purchase such supplies, equipment, mechanical devices, and other articles as may be necessary for employment or use in the District of Columbia, or any collection district of the United States, or any of the Territories thereof: *Provided*, That not more than \$40,000 of the amount appropriated may be used for the employment in the Bureau of Internal Revenue in the District of Columbia of necessary clerical help at rates to be fixed by the Commissioner of Internal Revenue, subject to the approval of the Secretary of the Treasury, and for the purchase of such supplies, equipment, mechanical devices, and other articles as may be necessary for use in the District of Columbia.

Estates, munitions, etc.

Restricting the sale of opium, and so forth: For expenses to enforce the provisions of the Act approved December seventeenth, nineteen hundred and fourteen, entitled "An Act to provide for the registration of, with collectors of internal revenue, and to impose a special tax upon, all persons who produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations, and for other purposes," including the employment of agents, deputy collectors, inspectors, chemists, assistant chemists, clerks, and messengers in the field and in

Opium.

the Bureau of Internal Revenue in the District of Columbia, to be appointed by the commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, and for the purchase of such supplies, equipment, mechanical devices, and other articles as may be necessary for use in the District of Columbia and the several collection districts, including not to exceed \$4 per diem in lieu of subsistence, \$325,000.

Miscellaneous expenses.

For rent of offices outside of the District of Columbia, telephone service, and other miscellaneous expenses incident to the collection of internal revenue, purchase of necessary books of reference and periodicals for the chemical laboratory and law library, not to exceed \$500, and reasonable expenses for not exceeding sixty days immediately following the injury of field officers or employees in the Internal-Revenue Service while in line of duty, of medical attendance, surgeon's and hospital bills made necessary by reason of such injury, and for horses crippled or killed while being used by officers in making raids, not exceeding \$150 for any horse so crippled or killed, \$100,000.

Report to Congress.

The Commissioner of Internal Revenue shall submit to Congress on the first day of its next regular session a detailed statement showing the number, designation, and annual rate of compensation of the persons employed and the amounts expended for rent and other authorized purposes in the District of Columbia from the foregoing appropriations for the collection of internal revenue.

That hereafter law books, books of reference, and periodicals for use of any executive department, or other Government establishment not under an executive department, at the seat of government, shall not be purchased or paid for from any appropriation made for contingent expenses or for any specific or general purpose unless such purchase is authorized and payment therefor specifically provided in the law granting the appropriation. [Sec. 3, legislative, executive, and judicial appropriation act, approved Mar. 15, 1898 (30 Stat., 277).]

Books of reference defined. (VI Comp. Dec., 227, 312.)

Report to be made to Congress relating to typewriters, adding machines, and other labor-saving devices, exchange of, price, etc. (Act of Mar. 4, 1915; 38 Stat., 1163.)

Typewriting machines.

SEC. 4. That no part of any money appropriated by this or any other Act shall be used during the fiscal year nineteen hundred and nineteen for the purchase of any typewriting machine at a price in excess of the lowest price paid by the Government of the United States for the same make and substantially the same model of machine during the fiscal year nineteen hundred and seventeen; such price shall include the value of any typewriting machine or machines given in exchange. * * *

SEC. 5. Detail of persons in the classified service restricted. (See p. 697.)

SEC. 6. That all civilian employees of the Governments of the United States and the District of Columbia who

receive a total of compensation at the rate of \$2,500 per annum or less, except as otherwise provided in this section, shall receive, during the fiscal year ending June thirtieth, nineteen hundred and nineteen, additional compensation at the rate of \$120 per annum: *Provided*, That such employees as receive a total of annual compensation at a rate more than \$2,500 and less than \$2,620 shall receive additional compensation at such a rate per annum as may be necessary to make their salaries, plus their additional compensation, at the rate of \$2,620 per annum, and no employee shall receive additional compensation under this section at a rate which is more than thirty per centum of the rate of the total annual compensation received by such employee: *Provided further*, That the increased compensation at the rates of five and ten per centum for the fiscal year ending June thirtieth, nineteen hundred and eighteen, shall not be computed as salary in construing this section: *Provided further*, That where an employee in the service on June thirtieth, nineteen hundred and seventeen, has received during the fiscal year nineteen hundred and eighteen, or shall receive during the fiscal year nineteen hundred and nineteen an increase of salary at a rate in excess of \$200 per annum, or where an employee whether previously in the service or not, has entered the service since June thirtieth, nineteen hundred and seventeen, whether such employee has received an increase in salary or not, such employees shall be granted the increased compensation provided herein only when ~~and upon~~ the certification of the person in the legislative branch or the head of the department or establishment employing such persons of the ability and qualifications personal to such employees as would justify such increased compensation: *Provided further*, That the increased compensation provided in this section to employees whose pay is adjusted from time to time through wage boards or similar authority shall be taken into consideration by such wage boards or similar authority in adjusting the pay of such employees.

Increased compensation.

* * * * *

Section six of the legislative, executive, and judicial appropriation Act approved May tenth, nineteen hundred and sixteen, as amended by the naval appropriation Act approved August twenty-ninth, nineteen hundred and sixteen, shall not operate to prevent anyone from receiving the additional compensation provided in this section who otherwise is entitled to receive the same.

Employees paid from lump-sum appropriations. (25 Comp. Dec., 109.)

* * * * *

Reports shall be submitted to Congress on the first day of the next regular session showing for the first four months of the fiscal year the average number of employ-

Reports to Congress.

ees in each department, bureau, office, or establishment receiving the increased compensation at the rate of \$120 per annum and the average number by grades receiving the same at each other rate.

Gaugers' right to increased compensation. (23 Comp. Dec., 670, 672.)

Increase of compensation. (Dept. Cir. No. 84, July 11, 1918.)

Travel expenses of department employees at Washington to be annually reported.

SEC. 4. [*Extract from the legislative, executive, and judicial appropriation act for the fiscal year ending June 30, 1909, approved May 22, 1908 (35 Stat., 244).*] It shall be the duty of the head of each executive department and other government establishment at Washington to submit to Congress at the beginning of each regular session a statement showing in detail what officers or employees (other than special agents, inspectors, or employees, who in the discharge of their regular duties are required to constantly travel) of such executive department or other government establishment have traveled on official business from Washington to points outside of the District of Columbia during the preceding fiscal year, giving in each case the full title of the official or employee, the destination or destinations of such travel, the business or work on account of which the same was made, and the total expense to the United States charged in each case.

Travel Regulations Cir. No. 31, June 25, 1914; T. D. 34583.

A person going to accept an office or employment is not entitled to reimbursement for travel expenses incident thereto. (4 Comp. Dec., 629; 5 Id., 180, 603; 6 Id., 672; 20 Id., 73.)

Appropriation for Office Force.

[*Legislative, executive, and judicial appropriation act for the fiscal year ending June 30, 1919, approved July 3, 1918 (40 Stat., 757).*]

Section 6 of the act of March 4, 1915 (38 Stat., 1049), provides that "The officers and employees of the United States whose salaries are herein appropriated for are established and shall continue from year to year to the extent they shall be appropriated for by Congress."

A fourth-class clerk is an inferior officer of the United States within the meaning of article 2, section 2, of the Constitution. (27 Op. Atty. Gen., 219.)

As to officer's right to whole amount of the annual salary fixed by the Revised Statutes, although Congress has appropriated a less amount as compensation for the fiscal year. (Wallace's case, 2 Lawrence Dec., 376; 28 Int. Rev. Rec., 271; Fisher's case, 15 Ct. Cls., 323; 109 U. S., 143.)

Double salaries restricted, p. 690.

Transfer of duties to clerks of lower class. Section 3, act August 15, 1876 (19 Stat., 143). (See Appendix, p. 693.)

Employees to be paid from specific appropriations. Act August 5, 1882 (22 Stat., 255), page 695.

Transfers and details. Appendix, page 696.

Temporary detail of clerks. Section 166, Revised Statutes, as amended by section 3 of the act of May 28, 1890 (29 Stat., 140).

President's authority to prescribe regulations concerning appointments. (Sec. 1753, R. S., p. 693.)

Preference in appointment to public office of honorably discharged soldiers. (Sec. 1754, R. S., p. 693; 17 Op. Atty. Gen., 194.)

Official correspondence. (T. D. 1572.)

An act to regulate and improve the civil service of the United States (civil-service act). Act January 16, 1883 (22 Stat., 403).

Subordinate officers of the several departments should communicate with Congress on matters involving legislation through the heads of their departments. (17 Op. Atty. Gen., 254.)

President Roosevelt's order. (Dept. Cir. No. 11, January 29, 1906.)

President Taft's order prescribing method of communication with Congress. (Dept. Cir. No. 64, 1909; T. D. 30151.)

Influencing legislation by employee in Treasury Department. (Executive Order No. 1514, April 8, 1912; Dept. Cir. No. 19.)

The right of persons employed in the civil service of the United States, either individually or collectively, to petition Congress, or any member thereof, or to furnish information to either House of Congress, or to any committee or member thereof, shall not be denied or interfered with. (Act of Aug. 24, 1912; 37 Stat., 555.)

Employee wrongfully suspended; civil-service law. (United States v. Wickersham, 201 U. S., 390.)

The question of reinstatement is one of administrative discretion, and not to be granted except when consistent with the interests of the public service. (24 Op. Atty. Gen., 108, Aug. 27, 1902.)

Reinstatements. (19 Op. Atty. Gen., 416, 434, 533; 25 Id., 618.)

With the exception of section 13, act of January 16, 1883, reproduced in section 120 of the criminal code (act of March 4, 1909), which prohibits promotion, degradation, removal, or discharge of any officer or employee for giving or withholding or neglecting to make any contribution of money or other valuable thing for any political purpose, no legislative declaration expressly bearing upon removals from office is made. (Taylor v. Taft, 24 App. D. C., 95.)

Civil-service rules promulgated by the Executive, so far as they deal with the Executive right of removal, are but expressions of the will of the President, and are regulations imposed by him upon his own action, or that of heads of departments appointed by him. They do not give the employees within the classified civil service any such tenure of office as to confer upon them a property right in the office or place. (Morgan v. Nunn, 84 Fed., 551; Page v. Moffett, 85 Fed., 38; T. D. 19027; Keim v. United States, 177 U. S., 290, affirming 33 Ct. Cls., 174.)

Members of a family in public service limited. (18 Op. Atty. Gen., 83; 26 Id., 260, 301; 30 Id., 169.)

Monthly salaries. Method of prorating for fractional part of a month. (XIII Comp. Dec., 1.)

Rules for division of time and computation of pay for persons in the Government service receiving a yearly or monthly compensation. (Sec. 6, act of June 30, 1906; 34 Stat., 763 (sundry civil appropriation act); Dept. Cir. No. 35, March 24, 1917; 20 Comp. Dec., 772, 867.)

When civil employees of the United States are injured while in the performance of their duties, they are, by the terms of the Federal compensation act of September 7, 1916 (39 Stat., 742), entitled to "reasonable medical, surgical, and hospital services and supplies" for the injury, whether or not disability has arisen.

Money due to an employee of the Government, and in the hands of a disbursing officer, can not be attached by a

process issued from a State court. (10 Op. Atty. Gen., 120.)

Meaning and scope of sec. 1766, where a clerk is a judgment creditor of the United States. (26 Op. Atty. Gen., 77.)

SEC. 7. [*Act of March 15, 1898 (30 Stat., 317). Legislative, executive, and judicial appropriation act.*]

That section five of the Act making appropriations for legislative, executive, and judicial expenses, approved March third, eighteen hundred and ninety-three, is hereby amended to read as follows:

Seven hours' time required of clerks and other employees.

Hereafter it shall be the duty of the heads of the several Executive Departments, in the interest of the public service, to require of all clerks and other employees, of whatever grade or class, in their respective Departments, not less than seven hours of labor each day, except Sundays and days declared public holidays by law or Executive order: *Provided*, That the heads of the Departments may, by special order, stating the reason, further extend the hours of any clerk or employee in their Departments, respectively; but in case of an extension it shall be without additional compensation: *Provided further*, That the head of any Department may grant thirty days' annual leave with pay in any one year to each clerk or employee: *And provided further*, That where some member of the immediate family of a clerk or employee is afflicted with a contagious disease and requires the care and attendance of such employee, or where his or her presence in the Department would jeopardize the health of fellow-clerks, and in exceptional and meritorious cases, where a clerk or employee is personally ill, and where to limit the annual leave to thirty days in any one calendar year would work peculiar hardship, it may be extended, in the discretion of the head of the Department, with pay, not exceeding thirty days in any one case or in any one calendar year.

Thirty days' annual leave with pay.

Thirty days' additional annual leave in case of sickness, etc.

This section shall not be construed to mean that so long as a clerk or employee is borne upon the rolls of the Department in excess of the time herein provided for or granted that he or she shall be entitled to pay during the period of such excessive absence, but that the pay shall stop upon the expiration of the granted leave. * * *

The act of July 7, 1898 (30 Stat., 653), provides that "Nothing contained in section seven of the act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year eighteen hundred and ninety-nine, approved March fifteenth, eighteen hundred and ninety-eight, shall be construed to prevent the head of any executive department from granting thirty days' annual leave with pay in any one year to a clerk or employee, notwithstanding such clerk or employee may have had during such year not exceeding thirty days leave with pay on account of sickness as provided in said section seven." (Dept. Cir. No. 52, July 7, 1908.)

Hours of labor. (Cir. No. 655; T. D. 756.) Time records. Hours of work. (Cir. No. 67, Dec. 27, 1910. T. D. 31150.)

Hours of labor on Saturdays from June 15 to September 15. (Dept. Cir. No. 30, June 12, 1914.)

Meaning of the phrase "Exceptional and meritorious."
(20 Op. Atty. Gen., 716.)

Recording clocks not to be used. (Act July 7, 1898; 30 Stat., 655.)

It shall be the duty of the heads of the several executive departments of the Government to report to Congress each year in the annual estimates the number of employees in each bureau and office and the salaries of each who are below a fair standard of efficiency. (Sec. 2, act of July 11, 1890, Supp. R. S., vol. 1, 2d ed., p. 773; 26 Stat., 268.)

The act of March 15, 1898 (30 Stat., 316), and the acts amendatory thereof governing the subject of leaves of absence in the executive departments, do not entitle employees to leaves of absence as a matter of right, but simply authorize the heads of departments, in their discretion, to grant leaves of absence with pay within the limits therein fixed. (22 Compt. Dec., 103.)

Time and leave regulations. (Dept. Circular No. 56, December 9, 1912; effective January 1, 1913.)

Leave of absence of revenue agents and inspectors. (Sec. 413, act of September 8, 1916.)

SEC. 4. [Act of February 24, 1899 (30 Stat., 889). *Legislative, executive and judicial appropriation act, 1900.*] Term of temporary service extended.

* * * * *

The establishment of a civil pension roll or an honorable service roll, or the exemption of any of the officers, clerks, and persons in the public service from the existing laws respecting employment in such service, is hereby prohibited: *Provided*, That the thirty days' annual leave of absence with pay in any one year to clerks and employees in the several Executive Departments authorized by existing law shall be exclusive of Sundays and legal holidays. No honorary service roll.

Thirty days' annual leave of absence.

SEC. 1301 (c) [Act of February 24, 1919 (40 Stat., 1057). *Extract.*] There is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1919, the sum of \$7,500,000 for the expenses of assessing and collecting the internal-revenue taxes as provided in this Act, including the employment of necessary officers, attorneys, experts, agents, inspectors, deputy collectors, clerks, janitors, and messengers, in the District of Columbia and the several collection districts, to be appointed as provided by law, telegraph and telephone service, rental and repair of quarters, postage, and the purchase of such supplies, equipment, furniture, mechanical devices, printing, stationery, law books and books of reference, not to exceed \$500 for street car fares in the District of Columbia, and such other articles as may be necessary for use in the District of Columbia and the several collection districts: *Provided*, That not more than \$2,750,000 of the total amount appropriated by this section may be expended in the Bureau of Internal Revenue, in the District of Columbia. Fiscal year ending June 30, 1919.

SEC. 3. [Extract from the legislative, executive, and judicial appropriation act for the fiscal year ending June 30, 1903, approved April 28, 1902. (32 Stat., 120, 171.)] Temporary clerks transferred to classified service.

That the additional clerks on the temporary rolls and other employees rendered necessary because of increased work incident to the war with Spain, and under the Act of June thirteenth, eighteen hundred and ninety-eight, providing for war expenditures and for other purposes, heretofore appointed and who are now employed in the several departments of the Government, are hereby transferred to the classified service as of their present grade or rate of compensation, respectively, and shall be continued in the several departments where now employed, without further examination, subject, however, to transfer, promotion, or removal the same as other clerks and employees in the classified service.

Account of re-
ceipts of inter-
nal revenue.

SEC. 239. Separate accounts shall be kept at the Department of the Treasury of all moneys received from internal duties or taxes in each of the respective States, Territories, and collection districts, and of the amount of each species of duty and tax that shall accrue; so as to exhibit, as far as may be, the amount collected from each source of revenue, with the moneys paid as compensation and for allowances to the collectors and deputy collectors, inspectors, and other officers employed in each of the respective States, Territories, and collection districts.

Approval of accounting forms. (T. D. 1695.)

Secretary to
issue instructions
and regulations
to collectors.

SEC. 251. The Secretary of the Treasury shall make and issue from time to time such instructions and regulations to the several collectors, * * * who may receive Treasury notes, United States notes, or other securities of the United States, * * * as he shall deem best calculated to promote the public convenience and security, and to protect the United States, as well as individuals, from fraud and loss; he shall prescribe forms of entries, oaths, bonds, and others papers, and rules and regulations, not inconsistent with law, to be used under and in the execution and enforcement of the various provisions of the internal-revenue laws, * * *; he shall give such directions to collectors and prescribe such rules and forms to be observed by them as may be necessary for the proper execution of the law; * * *.

Regulations of the Secretary of the Treasury adopting different forms for use in applications for abatement of assessment and for return of moneys alleged to have been wrongfully collected as such have force of law and will be judicially noticed by Federal courts. (Hastings v. Herold, 184 Fed., 759.)

Abstract of
receipts from in-
ternal taxes.

SEC. 261. The Secretary of the Treasury shall annually, in the month of December, lay before Congress an abstract, in tabular form, of the separate accounts of moneys received from internal duties or taxes in each of the respective States, Territories, and collection districts, required by section two hundred and thirty-nine, to be kept at the Treasury.

Annual detailed report of receipts and expenditures
(Sec. 15, act of July 31, 1894, 28 Stat., 210.)

SEC. 196. The head of each Department, except the Department of Justice, shall furnish to the Congressional Printer copies of the documents usually accompanying his annual report, on or before the first day of November in each year, and a copy of his annual report on or before the third Monday in November in each year.

Annual report
of head of De-
partment.

Provided, That of the reports of * * * the Commissioner of Internal Revenue, * * * the usual number only shall be printed. (Act of January 12, 1895, 28 Stat., 601, 616; Supp., R. S., vol. 2, p. 356.)

No head of any executive department, or of any bureau, branch, or office of the Government, shall cause to be printed, nor shall the Public Printer print, any document or matter except that which is authorized by law and necessary to the public business; and executive officers, before transmitting their annual reports, shall carefully examine the same and all accompanying documents, and exclude therefrom all matter, including engravings, maps, drawings, and illustrations, except such as they shall certify in their letters transmitting such reports are necessary and relate entirely to the transaction of the public business. (Sec. 94, act of January 12, 1895, 28 Stat., 601.)

No printing and binding shall be done by the Public Printer for the several executive and judicial departments of the Government in any fiscal year in excess of the amount of the allotment for such departments.

Heads of executive departments shall direct whether reports made to them by bureau chiefs and chiefs of divisions shall be printed or not. (Act of August 5, 1892, 27 Stat., 388.)

No report, document, or publication of any kind distributed by or from an executive department or bureau of the Government shall contain any notice that same is sent with "the compliments" of an officer of the Government, or with any special notice that it is so sent, except that notice that it has been sent, with a request for an acknowledgment of its receipt, may be given. (Act of January 12, 1895, 28 Stat., 601, 620.)

Mailing lists prohibited by act of August 23, 1912 (37 Stat., 414).

SEC. 3. [Act of July 1, 1916 (39 Stat., 262). *Sundry civil appropriation act for 1916-17.*] That appropriations herein and hereafter made for printing and binding shall not be used for any annual report or the accompanying documents unless the copy therefor is furnished to the Public Printer in the following manner: Copies of the documents accompanying such annual reports on or before the fifteenth day of October of each year; copies of the annual reports on or before the fifteenth day of November of each year; complete revised proofs of the accompanying documents and the annual reports on the tenth and twentieth days of November of each year, respectively; and all of said annual reports and accompanying documents shall be printed, made public, and available for distribution not later than within the first five days after the assembling of each regular session of Congress. The provisions of this section shall not apply to the annual reports of the Smithsonian Institution, the Commissioner of Patents, or the Comptroller of the Currency.

Annual re-
ports—time for
furnishing copy
to printer.

TITLE XXXV—INTERNAL REVENUE.

REVISED STATUTES.

CHAPTER ONE.

OFFICERS OF INTERNAL REVENUE.

- | Sec. | Sec. |
|---|--|
| 3140 (amended). Definitions. | 1. Act May 10, 1916. Posts of duty of employees; per diem in lieu of subsistence. |
| 3141. Collection districts. | 3153. Storekeepers; salaries and bonds. Office of storekeeper and gauger. |
| 3142. Collectors. | 1. Act August 15, 1876. Compensation and bond. |
| 1. Act August 23, 1912. Number of collectors. | 64. Act August 28, 1894. Storekeepers at distilleries that mash less than 60 bushels of grain per day. |
| 1. Act July 16, 1914. Same. | 2. Act June 21, 1879. Storekeepers at distilleries whose registered capacity is 20 bushels or less. |
| 3143 (amended). Collectors' bonds. | Act February 24, 1911. Compensation. |
| 3144 (amended). Collectors to be disbursing agents. | Act June 28, 1902. Assignment of storekeeper and gauger. |
| 3145. (Obsolete.) | 3154. Assignment and transfer of storekeepers. |
| 3146. Accounts of collectors adjusted according to fiscal year. | 63. Act August 28, 1894 (amended). Compensation of storekeepers and gaugers. Transfers and details. |
| 3147. Apportionment of compensation of collectors. | 1. Act April 17, 1900. Accounts of gaugers, etc., detailed. |
| [3148]. Secs. 12 and 13, act February 8, 1875, as amended. Collectors' compensation and allowances; deputy collectors and their salaries. | 3155. Temporary storekeepers. |
| 1. Act October 22, 1913. Appointment of deputy collectors and deputy marshals. | 3156. Gaugers. |
| 13. Act February 8, 1875, as amended by act March 1, 1879. Collectors' compensation and allowances. | 65. Act August 28, 1894. Assignment of gaugers. |
| 1901 (b). Act February 24, 1919. Readjustments and increase of salaries. | 3157. Gaugers' fees. |
| 3149 (amended). Disability or vacancy in office of collector. | 1. Act June 19, 1878. Same. |
| 1. Act of April 17, 1900. Authority to detail deputy collectors. | 1. Act August 15, 1876. Gaugers only paid for actual service. |
| 3150. Deputy collector, when entitled to collectors' salary. | 1. Act July 7, 1898. Gaugers' compensation. |
| 3151. (Repealed.) | 402. Act September 8, 1916. Assignment to fruit distilleries and wineries. |
| 3152 (amended). Internal revenue agents. | Act June 23, 1910. Cumulative annual leave of absence to storekeepers, gaugers, and storekeeper-gaugers. |
| 1. Act April 28, 1902. Additional agents. | 1. Act July 7, 1884. Officers in commission not to exceed 15 per cent of the number employed. |
| 1. Act April 17, 1900. Compensation; subsistence allowance. | 3158. Statement under oath of fees, etc.; penalty. |
| 1. Act Feb. 3, 1905. Agents examining accounts. | |
| 1902. Act February 24, 1919. Leave of absence. | |
| 13. Act August 1, 1914. Subsistence allowance outside District of Columbia. | |

Sec.

3159. (Repealed.)
 3160. (Repealed.)
 3161. Officers in charge of exportation and drawbacks.
 3162. Collectors and superintendents of exports may administer oaths.
 3163 (amended). Duties of collectors and internal revenue agents.
 1. Act August 15, 1876. Commissioner may transfer and suspend certain officers.
 3164 (amended). Collectors to report violations of law to district attorney.
 3165 (amended). Revenue officers who may administer oaths and take evidence.
 8. Act August 24, 1912. Oaths to expense accounts.
 3166. Revenue officers specially authorized to make seizures.
 3167 (amended). Revenue officers disclosing operations of manufacturers, etc.; penalty.

Sec.

3168. Officers not to be interested in certain manufactures; penalty.
 3169. Officers guilty of extortion, receiving unlawful fees, and other unlawful acts; penalty.
 1. Act March 1, 1879. Collectors, etc., issuing stamps before payment; penalty.
 23. Act February 8, 1875. Laws imposing punishment on internal revenue officers applied to certain other classes of persons.
 3170. District attorney or marshal accepting or demanding anything for compromise of violations of law.
 3171 (amended). Officers suffering injuries may maintain suit for damages.
 1301 (d). Act February 24, 1919. Advisory Tax Board.

Definitions.

SEC. 3140. [*Amended by act of February 27, 1877 (19 Stat., 240).*] The word "State," when used in this Title, shall be construed to include the Territories and the District of Columbia, where such construction is necessary to carry out its provisions. And where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the word "person," as used in this title, shall be construed to mean and include a partnership, association, company, or corporation, as well as a natural person.

SEC. 1. R. S. In determining the meaning of the Revised Statutes, or of any act or resolution of Congress passed subsequent to February twenty-fifth, eighteen hundred and seventy-one, words importing the singular number may extend and be applied to several persons or things; words importing the plural number may include the singular; words importing the masculine gender may be applied to females; * * * the word "person" may extend and be applied to partnerships and corporations, and the reference to any officer shall include any person authorized by law to perform the duties of such office, unless the context shows that such words were intended to be used in a more limited sense; and a requirement of an "oath" shall be deemed complied with by making affirmation in judicial form.

SEC. 2. The word "county" includes a parish, or any other equivalent subdivision of a State or Territory of the United States.

SEC. 3. The word "vessel" includes every description of water craft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

SEC. 4. The word "vehicle" includes every description of carriage or other artificial contrivance used, or capable of being used, as a means of transportation on land.

SEC. 5. The word "company" or "association," when used in reference to a corporation, shall be deemed to embrace the words "successors and assigns of such company

or association," in like manner as if these last-named words, or words of similar import, were expressed.

Person includes corporations. (23 Int. Rev. Rec., 141; 15 Op. Atty. Gen., 230.) The term "corporation," as used in the acts of Congress touching internal revenue, does not include a State. The term "person" does not include a State. (12 Op. Atty. Gen., 176.)

A railroad wholly owned by a State and operated by it is not taxable under United States revenue laws. (George v. Atkins, 1 Abb. (U. S.), 22; 8 Int. Rev. Rec., 113.)

When a State engages in commercial business for a profit, it can not claim exemption from taxation on the principle that it is a tax on the instrumentalities of the State government. (South Carolina v. United States, 39 Ct. Cls., 257; T. D. 759; 199 U. S., 437; T. D. 961.)

As to the meaning of the term "revenue law." (United States v. Hill, 123 U. S., 631.)

The general provisions of Chapters 1 and 2 apply to taxes imposed by subsequent legislation containing no provisions to the contrary. (United States v. Barnes, 222 U. S., 513; T. D. 1751.)

SEC. 3141. For the purpose of assessing, levying, and collecting the taxes provided by the internal-revenue laws, the President may establish convenient collection-districts, and for that purpose he may subdivide any State, Territory, or the District of Columbia, or may unite two or more States or Territories into one district, and may from time to time alter said districts: *Provided*, That the number of districts in any State shall not exceed the number of Representatives in Congress to which such State was entitled in the Thirty-seventh Congress, except in such States as were entitled to an increased representation in the Thirty-eighth Congress, in which States the number of districts shall not exceed the number of Representatives to which any such State was so entitled: *And provided further*, That in the State of California the President may establish a number of districts not exceeding the number of Senators and Representatives to which said State was entitled, in the Thirty-seventh Congress.

Collection districts.

Verbal error corrected.
Act Feb. 27, 1877 (19 Stat., 20).

The power of the President to change or alter collection districts considered. (10 Op. Atty. Gen., 469; 12 Op. Atty. Gen., 51; 14 Op. Atty. Gen., 215.)

Supreme Court will take judicial notice that the United States is divided into collection districts for revenue purposes. (United States v. Jackson, 104 U. S., 41; 28 Int. Rev. Rec., 12.)

SEC. 3142. The President, by and with the advice and consent of the Senate, shall appoint for each collection district a collector, who shall be a resident of the same. When two or more collection-districts are united by him, he may designate from among the existing officers of such districts one collector for the new district, or, at his discretion, he may make a new appointment of such officer for said district.

Collectors.

Assessors abolished. Act of December 24, 1872.

The legislative appropriation act for 1877, passed August 15, 1876 (19 Stat., 152), reduced the number of internal-revenue districts to 131.

The appropriation act for 1878, passed March 3, 1877 (19 Stat., 303), reduced the number to 126. (Supp. R. S., 135.)

Executive order of June 25, 1883, as modified by orders of June 30, 1883, and October 13 and December 5, 1883, reduced the number of districts from 126 to 84.

Executive order of February 13, 1884, reestablished the district of Nevada (which in 1883 was consolidated with Fourth California), making the number of districts 85.

The number of districts was reduced from 85 to 63 by Executive order of May 21, 1887. (33 Int. Rev. Rec., 157.)

Hawaii constituted an internal-revenue district by act of April 30, 1900 (31 Stat., 141), to take effect June 14, 1900, page 373. (T. D. 157.)

District of Oklahoma established February 6, 1911.

Under existing law there is no limitation placed on the term of office of collectors of internal revenue, and in this respect this office differs from other civil officers of the Government. (Commissioners' reports, 1877 and 1881.)

Judicial notice will be taken of the official character and the official acts of the collector and his deputy. (Leach v. Snyder (1886), 112 Pa., 161.)

Regulations relating to leaves of absence of collectors; use of facsimile signatures on official papers not permitted. (T. D. 1716.)

SEC. 238. The commissions of all officers employed in levying or collecting the public revenue shall be made out and recorded in the Department of the Treasury, and the seal of the Department affixed thereto. But the seal shall not be affixed to any such commission before the same has been signed by the President.

Number of collectors.

SEC. 1. [*Act of August 23, 1912 (37 Stat., 381).*] On and after October first, nineteen hundred and twelve, the whole number of collection districts for the collection of internal revenue and the whole number of collectors of internal revenue shall not exceed sixty-three.

SEC. 1. [*Act of July 16, 1914 (38 Stat., 454, 475).*] On and after October first, nineteen hundred and fourteen, the whole number of collection districts for the collection of internal revenue and the whole number of collectors of internal revenue shall not exceed sixty-four.

Collection districts listed on page 47.

Collector's bonds.

SEC. 3143. [*Amended by sec. 2, act March 1, 1879 (20 Stat., 327), and by sec. 5, act March 2, 1895 (28 Stat., 807).*] Every collector, before entering upon the duties of his office, shall execute a bond for such amount as may be prescribed by the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, with not less than five sureties, to be approved by the Solicitor of the Treasury, conditioned that said collector shall faithfully perform the duties of his office according to law, and shall justly and faithfully account for and pay over to the United States, in compliance with the order or regulations of the Secretary of the Treasury, all public moneys which may come into his hands or possession; and he shall, from time to time, renew, strengthen, and increase his official bond, as the Secretary of the Treasury may direct, with such further conditions as the said Commissioner

shall prescribe; and he shall execute a new bond whenever required so to do by the Secretary of the Treasury, with such conditions as may be required by law or prescribed by the Commissioner of Internal Revenue, with not less than five sureties; which new bond shall be in lieu of any former bond or bonds of such collector in respect to all liabilities accruing after the date of its approval by the Solicitor of the Treasury. Said bonds shall be filed in the office of the Secretary of the Treasury.

Proceedings against delinquent collectors. (Secs. 3624, 3625, 3633, Appendix, p. 666.)

Claims for credit in suits brought by the United States. (Sec. 961, p. 685.)

Act relative to allowing certain corporations to be accepted as surety. (Act August 13, 1894.) See p. 612.

A bond takes effect upon its acceptance and approval. (19 How., 73.)

Collector approving worthless bonds; liability of collector's bond for loss sustained by Government. (United States v. Thorn, 9 Int. Rev. Rec., 65; Fed. Cas. No. 16493.)

Collectors are liable to prosecution for accepting fraudulent bonds, as well as liable on their official bonds for loss. (United States v. Callicott, 7 Int. Rev. Rec., 177; Fed. Cas. No. 14710.)

Collector and deputy collector indicted jointly with others.

Allowance to collectors; set-offs. (Hall v. United States, 91 U. S. (1 Otto), 559.)

Gaugers' fees received by collectors; Treasury settlements. (Soule v. United States, 100 U. S. (10 Otto), 8; 26 Int. Rev. Rec., 4.)

Question of credits, time when compensation commences. (United States v. Flanders, 112 U. S., 88; 30 Int. Rev. Rec., 397.)

Due diligence. (United States v. Kimball, 101 U. S. (11 Otto), 725.)

Money received from sale of stamps; use of old form of bond. (United States v. Hough, 103 U. S. (13 Otto), 71.)

Bond not void because district is not stated. (United States v. Jackson, 104 U. S. (14 Otto), 41; 28 Int. Rev. Rec., 12.)

Collectors' receipts; certified transcripts. (United States v. Hunt, 105 U. S. (15 Otto), 183; 28 Int. Rev. Rec., 134.)

Evidence. (United States v. Stone, 106 U. S. (16 Otto), 525.)

The addition of a condition, not specifically named in the act of Congress, that obligors shall not be liable if each and every deputy appointed by the collector shall truly and faithfully execute and discharge all the duties of such deputy collector according to law, does not relieve the sureties. Mode of settling accounts of collectors; mode of prosecuting suits, etc. (Chadwick v. United States, 3 Fed., 750.)

Sureties liable for taxes collected and not accounted for. (United States v. Harry Chase, 22 Int. Rev. Rec., 11; Fed. Cas. No. 14788; King v. United States, 99 U. S., 229.)

A bond requiring a faithful performance of official duty is as binding upon the principal and his sureties as if all the statutory duties and official regulations of the office were inserted in the bond. (Pond v. United States, 111 Fed., 995.)

Liability of sureties when duties are imposed on principal by laws subsequent to the execution of the bond. (United States v. McCartney, 26 Int. Rev. Rec., 28.) This question and other questions relating to sureties on official bonds considered. (30 Int. Rev. Rec., 161, 166.)

Change in the regulations subsequent to the execution of bond putting deputy collectors in the classified civil service did not relieve the sureties from liability. (*Laffan v. United States*, 122 Fed., 333; T. D. 653.)

Liability of a surety on an official bond is stricti juris; surety not to be held responsible for the conduct of his principal beyond the scope of his undertaking reasonably construed. (*United States v. Adams*, 31 Int. Rev. Rec., 261; 24 Fed. 348.)

In a suit on collector's bond, where one of the sureties had signed the bond in blank already signed by the principal, with an understanding with the principal that only a certain amount was to be inserted therein as penalty, and with the further understanding that two additional sureties were to be furnished, each worth a certain sum, and where the bond was afterwards completed by the insertion of an amount larger than that agreed upon, and signed by two worthless sureties, and afterwards the bond was delivered to the proper officer of the Government, who accepted it in the belief that it was properly executed and with no notice of the private agreement, held that the first surety was liable. Case not distinguished in principle from *Dair v. United States*, 16 Wall., 1. (*Butler v. United States*, 21 Wall., 272.)

A judgment against a defaulting collector does not bind a surety on his bond unless the surety was a party to the action; and no Federal statute creates a lien on the property of a collector of internal revenue or his sureties from the execution of his official bond, or from the date of any default thereon. (*United States v. Ingates*, 48 Fed., 251.)

Accounts must be stated to show liability under each bond. (*United States v. Barton Abel*, 15 Int. Rev. Rec., 41 and 50; Fed. Cas. No. 14417.)

Public officers liable for all moneys that come into their hands officially. (*United States v. Prescott*, 3 How., 378; *Pond v. United States*, 111 Fed., 989.)

The payment of money to the deputy collector without receiving stamps therefor was not a payment of the tax on the brandy; the money did not become public money in the hands of the collector, and the sureties were not liable for it. (*United States v. Hermance*, 15 Blatch., 6; Fed. Cas. No. 15355.)

Stamps are the equivalent of money in the hands of the collector. (*Pond v. United States*, 111 Fed., 989.)

Liabilities of sureties on temporary bond. (*United States v. Kirkpatrick*, 9 Wheat., 720.)

The collector's bond is a contract for the indemnity of the United States alone and not for the indemnity of private persons. (*Clark v. United States*, 60 Ga., 156.)

The direction of the commissioner to execute a new bond must be considered as the direction of the Secretary of the Treasury. (*Soule v. United States*, 100 U. S., 8.)

If the name of a person in a written instrument was wrong, or applies to a wrong person, the court will correct it by construction, when it is apparent upon the face of the instrument that the error exists and in what manner it should be corrected to carry out the intention of the parties. (*Richmond v. Woodward*, 32 Vt., 283.)

A married woman will not be accepted as a surety.

No surety can hold office under his principal. (43 Int. Rev. Rec., 438; Dept. Cir. No. 70, Nov. 23, 1907.)

Death of a surety does not relieve estate. (*Pond v. United States*, 111 Fed., 989.)

Official bonds—preparation, sureties, renewal, notices of approval, etc. (Dept. Cir. No. 65, May 29, 1905.)

Rules regulating the execution of bonds under the Treasury Department. (Dept. Cir. No. 70, Nov. 23, 1907.)

Where under the act of March 2, 1895, page—, an officer renews his bond by giving a bond during the same term of office, the new bond does not operate to release the sureties on the first bond from liability for future transactions, but the sureties on the old and new bonds are jointly and severally liable therefor. (5 Comp. Dec., 918.)

Official bonds are to be examined every two years, and to be renewed every four years or oftener. These bonds are to be filed with the Secretary of the Treasury. (Sec. 5, act of March 2, 1895, 28 Stat., 764.) See page 617.

Notice of deficiency in accounts of principals to be given to sureties upon bonds of United States officials; limitation of time within which suit shall be brought against sureties on said bond. (Act of August 8, 1888. See page 618.)

SEC. 3144. [*Amended by sec. 2, act of March 1, 1879 (20 Stat., 327), and by sec. 5 of the act of March 2, 1895 (28 Stat., 807).*] It shall be the duty of collectors of internal revenue to act as disbursing agents of the Treasury for the payment of all expenses of collection of taxes and other expenditures for the internal revenue service within their respective districts, under regulations and instructions from the Secretary of the Treasury, on giving good and sufficient bond, with such sureties, in such form, and in such penal sum, as shall be prescribed * * * and approved by the Secretary of the Treasury, for the faithful performance of their duties as such disbursing agents; but no additional compensation shall be paid to collectors for such services.

Collectors to
act as disbursing
agents.

The words "by the First Comptroller of the Treasury" omitted in view of the following act: Hereafter all bonds of * * * collectors of internal revenue, * * * either as such officers or as disbursing officers of the Treasury, * * * and all such bonds now on file in the Office of the Comptroller of the Treasury shall be transmitted to the Secretary of the Treasury and filed as he may direct; and the duties now required by law of the Comptroller of the Treasury in regard to such bonds, as the successor of the * * * First Comptroller of the Treasury, shall hereafter be performed by the Secretary of the Treasury, * * *. [Sec. 5, act of March 2, 1895 (28 Stat., 807).]

As to duties of disbursing officers, see Appendix, section 3820 et seq., page 662.

Disbursing officers are responsible for the identity of the parties to whom they are authorized to pay money and for the genuineness of signatures to the vouchers returned by them. (*Hartson v. United States*, 21 Ct. Cls., 451.)

The bond required from the collector as disbursing agent is separate from and additional to his bond as collector. (*Hall v. United States*, 17 Ct. Cls., 39. See *Chadwick v. United States*, 3 Fed., 750.)

Bond of collector as disbursing agent held to cover disbursements to storekeepers, although the office of storekeeper was created by a law passed subsequent to date of bond. (*United States v. McCarty and others*, 1 Fed., 104; 26 Int. Rev. Rec., 28.)

The sureties on this bond (if individuals) must be other than those on bond as collector; but a corporate surety, duly qualified, may be accepted as surety on both bonds.

This bond must not be executed until after the collector has fully qualified as such by executing his bond as collector and taking the oath of office. (Dept. Cir. No. 191, October 12, 1897; 43 Int. Rev. Rec., 438.)

Dating checks on Sunday to be paid the next day allowable if necessary. (18 Compt. Dec., 606.)

SEC. 3145. [*Superseded by sections 12 and 13, act of February 8, 1875, as amended. See sec. 3148.*]

Accounts adjusted according to fiscal year.

SEC. 3146. In adjusting the accounts of collectors (accruing after June thirtieth, eighteen hundred and sixty-four) and in the payment of their compensation for services, the fiscal year of the Treasury shall be observed.

Collectors' revenue accounts to be rendered quarterly, page 130.

Collectors' disbursing accounts to be rendered monthly, page 665.

See section 237, Revised Statutes, commencement of fiscal year. (34 Int. Rev. Rec., 197.)

Collections made within fiscal year to be deposited within said year. (T. D. 2332.)

Apportionment of compensation of collectors.

SEC. 3147. When any part of the compensation of the collector of any district is by commission upon assessments or collections, and in consequence of a new appointment, is due to more than one collector within the same year, such commissions shall be apportioned between such collectors; but in no case shall a greater amount of the commissions be allowed to two or more collectors in the same district than shall have been authorized by law to be allowed to one collector, and the same rules shall apply to the salaries and commissions of assessors and collectors heretofore earned and accrued.

Certificate of Commissioner required.

But no payment shall be made to collectors, on account of salaries or commissions, without the certificate of the Commissioner of Internal Revenue that all reports required by law or regulation have been received, or that a satisfactory explanation has been rendered to him of the cause of delay.

See section 12, act of July 31, 1894, page 663, which rendered the first paragraph of this section inoperative.

As to certificate of due diligence, see section 3218, page 136.

Circular No. 275, February 15, 1884 (30 Int. Rev. Rec., 53), no payments to be made to a collector on account of salaries, etc., until all reports required by the regulations are received or the failure to render same satisfactorily explained.

Penalty for failure to make reports. Section 101, Criminal Code act of March 4, 1909 (35 Stat., 1107), p. 671.

Deputy collectors.

[SEC. 3148.] [*Superseded by sec. 12, act of February 8, 1875 (18 Stat., 309), as amended by sec. 2, act of March 1, 1879 (20 Stat., 327).*] That each collector of internal revenue shall be authorized to appoint, by an instrument in writing under his hand, as many deputies as he may think proper, to be compensated for their services by such allowances as shall be made by the Secretary of the Treasury, upon the recommendation of the Commissioner of Internal Revenue.

Allowances shall also be made in like manner for salary and office expenses of collectors, all of which shall

be in lieu of the salary and commissions heretofore provided by law:

Provided, however, That the salaries of collectors shall be fixed at two thousand dollars each per annum where the annual collections amount to twenty-five thousand dollars or less, and shall, by the Secretary, on the recommendation of the Commissioner, be graduated up to the maximum limit of four thousand five hundred dollars; which latter sum shall be allowed in all cases where the collections amount to one million of dollars or upward; and the collector shall have power to revoke the appointment of any such deputy, giving such notice thereof as the Commissioner of Internal Revenue may prescribe, and to require and accept bonds or other securities from any deputy; and actions upon such bonds may be brought in any appropriate district or circuit court of the United States; which courts are hereby given jurisdiction of such actions concurrently with the courts of the several States.

Salaries of deputies and collectors.

Each such deputy shall have the like authority in every respect to collect the taxes levied or assessed within the portion of the district assigned to him which is by law vested in the collector himself; but each collector shall, in every respect, be responsible, both to the United States and to individuals, as the case may be, for all moneys collected, and for every act done or neglected to be done, by any of his deputies while acting as such.

Deputy collector's authority and responsibility.

The right of collectors to commissions on taxes collected by the sale of tax-paid spirit stamps (sec. 3314, p. 269) was not taken from them by the act of March 1, 1879. But the total net compensation of collectors can not in any case exceed \$4,500 per annum. (United States v. Landram, 32 Int. Rev. Rec., 151; 118 U. S., 81.)

As to compensation for duties performed before taking oath. (United States v. Flanders, 112 U. S., 88; 30 Int. Rev. Rec., 397.)

Additional allowance of salary to collectors. (Utah case, 2 Lawrence Dec., 559; 28 Int. Rev. Rec., 293.)

An action by a collector of internal revenue against a deputy collector on his official bond may be removed from the State court to the Federal court under the act of March 3, 1875. (Orner v. Saunders, 3 Dillon, 284.)

The act of August 5, 1900, page 616, does not apply to bonds given by deputy collectors to the collector. (28 Op. Atty. Gen., 28.)

A deputy collector is authorized to act as such when his commission has been signed and placed in the mail and he is notified thereof by telegram. (United States v. Sykes, 58 Fed., 1000.)

No appeal lies from the decision of the Secretary as to making further allowances. Compensation of collectors can not be revised by the courts. (United States v. Hall, 2 Dillon, 426; 91 U. S., 559.)

Deputy collectors of internal revenue are appointed under section 3148, Revised Statutes, and the power of removal rests with the appointing power, the collector, subject to such requirements as to notice as the Commissioner of Internal Revenue may prescribe, and such action

can not be reviewed by an appeal to the courts. (Page v. Moffett, collector, 85 Fed., 38; T. D. 19027.)

Court of equity will not, by injunction, restrain a collector from making a removal of a subordinate employee. (Morgan v. Nunn, collector, 84 Fed., 551; T. D. 19027; White, collector, v. Berry, 171 U. S., 366.)

Civil-service law, power of removal. (26 Op. Atty. Gen., 363.)

Appointment and dismissal of deputy collectors. (Cir. No. 717, March 24, 1908; T. D. 1328.)

Deputy collectors included in the classified service. Executive order, November 7, 1906. (T. D. 1091.)

Power and duties of deputy collectors. (Landram v. United States, 16 Ct. Cls., 74.)

Generally speaking, a deputy has power to do every act which his principal may do. (29 Op. Atty. Gen., 119.)

Assignment of deputy collectors of internal revenue to special or general duty. (Circular letter May 12, 1899; T. D. 21150.)

Deputy collectors' diary report. (T. D. 1952; T. D. 1958; Regs. No. 1, art. 219.)

For pay purposes all months in the year are reckoned as containing thirty days. (XIII Comp. Dec., 1.)

Entire time of deputy collectors must be devoted to official duties. (Circular No. 532, May 11, 1899; T. D. 21149.)

Transfer of deputy collector as storekeeper-gauger. (T. D. 1331.)

The term of office of deputy collectors expires automatically upon the appointment of a new collector. (30 Op. Atty. Gen., 1; T. D. 1827.)

A new collector has the right upon taking office to drop deputy collectors and make new appointments in accordance with the rules of the Civil Service Commission. (T. D. 1328; 26 Op. Atty. Gen., 363.)

Is a deputy collector an officer? (Landram v. United States, 16 Ct. Cls., 74; Herndon v. United States, 15 Ct. Cls., 446; Hartson v. United States, 21 Ct. Cls., 451; but see 26 Op. Atty. Gen., 363.)

Division deputy collectors not to collect money from special-tax payers, but should see that forms are properly rendered. (T. D. 2247.)

Appointment of internal-revenue officers, under the Act of October 3, 1913, to be made in accordance with civil-service rules and regulations. (T. D. 2251.)

Reimbursement of field deputy collectors for necessary travelling expenses and actual expenses incurred for lodging and subsistence not in excess of \$5 per diem. (T. D. 2884.)

Appointment
of deputy col-
lectors and dep-
uty marshals.

SEC. 1. [Act of October 22, 1913 (38 Stat., 208).] * * * hereafter any deputy collector of internal revenue or deputy marshal who may be required by law or by authority or direction of the collector of internal revenue or the United States marshal to execute a bond to the collector of internal revenue or United States marshal to secure faithful performance of official duty may be appointed by the said collector or marshal, who may require such bond without regard to the provisions of an act of Congress entitled "An act to regulate and improve the civil service of the United States," approved January sixteenth, eighteen hundred and eighty-three, and amendments thereto, or any rule or regulation made in pursuance thereof, and the officer requiring said bond shall have

power to revoke the appointment of any subordinate officer or employee and appoint his successor at his discretion without regard to the act, amendments, rules, or regulations aforesaid.

SEC. 13. [Act of February 8, 1875 (18 Stat., 307), as amended by sec. 2, act of March 1, 1879 (20 Stat., 327).] That there shall be further paid, after the account thereof has been rendered to and approved by the proper officers of the Treasury, to each collector, his necessary and reasonable charges for advertising, stationery, and blank books used in the performance of his official duties, and for postage actually paid on letters and documents received or sent and exclusively relating to official business, but no such account shall be approved or allowed unless it states the date and the particular items of every such expenditure, and shall be verified by the oath of the collector: *Provided*, That the Secretary of the Treasury, on the recommendation of the Commissioner of Internal Revenue, be authorized to make such further allowances, from time to time, as may be reasonable, in cases in which, from the territorial extent of the district, or from the amount of internal duties collected, it may seem just to make such allowances; but no such allowance shall be made if more than one year has elapsed since the close of the fiscal year in which the services were rendered.

Collectors' advertising, stationery, etc.

Further allowances.

But the total net compensation of a collector shall not in any case exceed four thousand five hundred dollars a year; and no collector shall be entitled to any portion of the salary pertaining to the office unless such collector shall have been confirmed by the Senate, except in cases of commissions to fill vacancies occurring during the recess of the Senate.

Maximum net compensation of collector.

Deputy collector's pay. (Herndon's claim, 26 Int. Rev. Rec., 314; Herndon v. United States, 15 Ct. Cls., 446; 26 Int. Rev. Rec., 198; Wilson's case, 2 Lawrence Dec., 206.)

Are deputy collectors officers? (26 Op. Atty. Gen., 363.) See note under section 3169, p. 98.

Questions of salary are questions of contract, and the Government can be sued in Court of Claims when it fails to pay collector his salary. (Patton v. United States, 7 Ct. Cls., 362.)

Compensation of collectors. (Reg. No. 2, revised, p. 104.)

The salary of an officer begins from date of taking oath and entering on duty. (IV Comp. Dec., 59.)

Collectors of internal revenue shall render their revenue accounts quarterly. (Act of May 27, 1908; 35 Stat., 317.)

Freight and express bills to be paid by direct settlement. (T. D. 1372.)

Instructions relative to shipments of property by officers of the Internal Revenue Service, and payment of transportation charges on same. (T. D. 1562.)

See Articles 184-187, Regulations No. 2, revised July 5, 1916.

Collectors' stationery to be furnished on requisition; collectors can not be reimbursed for money expended for stationery from their private funds. (T. D. 1815.)

Instructions relative to preparation of vouchers, etc. (T. D. 1804.)

Readjustment
and increase of
salaries.

SEC. 1301 (b). [*Extract from act of February 24, 1919 (40 Stat., 1057).*] The salaries of collectors may be readjusted and increased under such regulations as may be prescribed by the Commissioner, subject to the approval of the Secretary, but no collector shall receive a salary in excess of \$6,000 a year.

Salaries are to be determined on basis of total number of individual and corporation income and profits tax returns (nontaxable returns excluded) received in the respective internal-revenue collection districts. (T. D. 2808.) Amended by T. D. 2902, the words "nontaxable returns excluded" being eliminated.

Disability or
vacancy in of-
fice of collector.

SEC. 3149. [*Amended by sec. 2, act of March 1, 1879 (20, Stat., 327).*] In case of the sickness or absence of a collector, or in case of his temporary disability to discharge his duties, they shall devolve upon his senior deputy, unless he shall have devolved them upon another of his deputies; and for the official acts or defaults of such deputies the collector and his sureties shall be held responsible to the United States.

Senior deputy
collector in
charge.

In case of a vacancy occurring in the office of collector, the deputies of such collector shall continue to act until his successor is appointed; and until a successor is appointed, the deputy of such collector senior in service shall discharge all the duties of collector, and also the duties of disbursing agent; and of two or more deputies appointed on the same day, the one residing nearest the residence of the collector when the vacancy occurred shall discharge the said duties until another collector is appointed.

When it appears to the Secretary of the Treasury that the interest of the Government so requires, he may, by his order, direct the said duties to be performed by such other one of the said deputies as he may designate.

Collector's
bond liable for
deputy acting.

For the official acts and defaults of the deputy upon whom said duties are devolved remedy shall be had on the official bond of the collector, as in other cases; and for the official acts and defaults of such deputy as acting disbursing agent, remedy shall be had on the official bond of the collector as disbursing agent.

(See section
3148, p. 76.)

And any bond or security taken from a deputy by a collector, pursuant to section twelve of "An act to amend existing customs and internal-revenue laws, and for other purposes," approved February eight, eighteen hundred and seventy-five, shall be available to his legal representatives and sureties to indemnify them for loss or damage accruing from any act or omission of duty by the deputy so continuing or succeeding to the duties of such collector.

Suspension of Collector Francis Widmer on charges of fraud by supervisor. Deputy performing duties of collector entitled to compensation. (*United States v. Farden*, 99 U. S., 10, affirming, 13 Ct. Cls., 347; 25 Int. Rev. Rec., 55.)

Commissioner's power to suspend collectors. (Sec. 1, act August 15, 1876; p. 93.)

Death, resignation, or removal of collector; accounts. (Sec. 3219, p. 137.)

SEC. 1. [*Extract from act of April 17, 1900 (31 Stat., 107).*] *Provided*, That the Commissioner of Internal Revenue is authorized to detail deputy collectors of internal revenue in one district for special duty in other districts, and the deputy collectors so detailed shall be paid by the collector of internal revenue and disbursing agent for the district for which they are appointed and for which the allowance for their salary and expenses is made, the same as if all their services had been performed and expenses incurred in that district. * * *

Authority to detail.

Act of June 29, 1906 (34 Stat., 620), provides for a deputy collector in Porto Rico; page 620.

SEC. 3150. Any deputy collector who has performed or may perform, under authority of law, the duties of any collector in consequence of a vacancy in the office of said collector, shall be entitled to receive the salary and commissions allowed by law to such collector, or the allowance in lieu of said salary and commissions allowed by the Secretary of the Treasury to such collector, and the Secretary of the Treasury may make to such deputy collector such allowance in lieu of salary and commissions as he might lawfully make to such collector. And such deputy shall not be debarred from receiving such salary and commissions, or allowances in lieu thereof, by reason of the holding of another Federal office by said collector during the time for which such deputy acts as collector. But all payments to such deputy collector shall be upon duly audited vouchers.

Deputy collector, or, when entitled to collector's salary.

Deputy collectors' expenses while attending court. (T. D. 1363.)

Appointment of revenue agents, inspectors, and special employees as deputy collectors without compensation to enable them to administer oaths. (T. D. 2235; T. D. 2238; T. D. 2293.)

Appointment of special gaugers as deputy collectors. (T. D. 2243.)

SEC. 3151. [*Inspectors of tobacco and cigars; repealed by act of August 4, 1886 (24 Stat., 218).*]

SEC. 3152. [*Amended by sec. 2, act of March 1, 1879 (20 Stat., 327); act of July 7, 1884 (23 Stat., 172).*] The Commissioner of Internal Revenue may, whenever in his judgment the necessities of the service so require, employ competent agents, not exceeding at any time twenty in number, to be paid such compensation as he may deem proper, not exceeding in the aggregate any appropriation made for that purpose; and he may, at his discretion, assign any such agent to duty under the direction of any officer of internal revenue, or to such other special duty as he may deem necessary; and no general

Internal-revenue agents.

or special agent or inspector, by whatever designation he may be known, of the Treasury Department, in connection with the internal revenue, * * * except as provided for in this title, shall be appointed, commissioned, employed, or continued in office.

Secs. 3177,
3277, 3286, 3318.

The agents whose employment is authorized by this section shall be known and designated as internal-revenue agents, and they shall have all the powers of entry and examination conferred upon any officer of internal revenue, by sections thirty-one hundred and seventy-seven, thirty-two hundred and seventy-seven, thirty-two hundred and eighty-six, and thirty-three hundred and eighteen of the Revised Statutes; and all the provisions of said sections, including those imposing fines, forfeitures, penalties, or other punishments for the enforcement thereof, are hereby made applicable to the action of internal-revenue agents, in the same manner as if such agents were specially named in each of said sections.

Secs. 3167,
3168, 3169, 3171.

And all the provisions of sections thirty-one hundred and sixty-seven, thirty-one hundred and sixty-eight, thirty-one hundred and sixty-nine, and thirty-one hundred and seventy-one of the Revised Statutes shall apply to internal-revenue agents as fully as to internal-revenue officers.

The legislative, executive, and judicial appropriation act, approved July 7, 1884 (23 Stat., 172), provided that there shall not be employed exceeding 20 agents, in lieu of the number then authorized by law.

Before this act the number authorized was 35.

Ten additional internal-revenue agents were authorized by section 3, act of June 13, 1898 (30 Stat., 450).

Twenty additional clerks and agents authorized by section 47, act of June 13, 1898 (30 Stat., 450).

Per diem in lieu of subsistence for periods less than a day for officers employed under this section. (T. D. 2173.)

Twenty addi-
tional agents.

SEC. 1. [*Extract from act of April 28, 1902 (32 Stat., 120, 142).*] * * * and for salaries and expenses of twenty additional internal revenue agents to be appointed and employed by the Commissioner of Internal Revenue, and these twenty agents to be in lieu of the agents provided for and appointed under the provisions of sections three and forty-seven of the Act of June thirteenth, eighteen hundred and ninety-eight, providing for war revenue expenditures and other purposes, and these to be the only internal revenue agents employed in addition to those provided for in section three thousand one hundred and fifty-two of the Revised Statutes. The existing provisions of law with regard to internal revenue agents shall apply to the duties, compensation, and expenses of these twenty additional agents, * * *

Act of October 3, 1913 (38 Stat., 180), "income-tax act":

That for the purpose of carrying into effect the provisions of section 11 of this act * * * the Commissioner of Internal Revenue, * * * is authorized to appoint and

pay from this appropriation [appropriation "Collecting the income tax, 1914"] all necessary * * * agents, inspectors, * * * : *Provided*, That no agent * * * shall receive compensation at a rate higher than that now received by traveling agents on accounts in the Internal-Revenue Service, and no inspector shall receive a compensation higher than \$5 a day and \$3 additional in lieu of subsistence * * * : *Provided*, That for a period of two years from and after the passage of this act the force of agents, * * * inspectors, * * * shall be appointed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, under such rules and regulations as may be fixed by the Secretary of the Treasury to insure faithful and competent service, and with such compensation as the Commissioner of Internal Revenue may fix, with the approval of the Secretary of the Treasury, within the limitations herein prescribed: *Provided further*, That the force * * * when not employed as herein provided, shall be employed on general internal-revenue work. (See appropriation for collecting the income tax, act of July 3, 1918, p. 58.)

Act of August 18, 1914 (38 Stat., 607), "cotton futures act":

That the Secretary of the Treasury * * * may appoint agents to conduct the inspection necessary to collect said tax [tax imposed by said act] and otherwise to enforce this act * * *, and may fix the compensation of such agents. (See appropriation for collecting cotton futures tax, act of July 3, 1918, p. 59.)

Act of December 17, 1914 (38 Stat., 789), opium registration and special tax act:

That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is authorized to appoint such agents * * * in the field and in the Bureau of Internal Revenue in the District of Columbia as may be necessary to enforce the provisions of this act. (See appropriation for restricting the sale of opium, etc., act of July 3, 1918, p. 50.)

Cooperation between State and Federal officers. (T. D. 1327.)

Conflict between State and Federal officers. (14 Op. Atty. Gen., 370.)

Change of legal residence of revenue agent. (17 Compt. Dec., 1012.)

The power to appoint carries with it the power to dismiss, and where the commissioner appoints an agent his appointment may be revoked at any time. (*Wheelock v. United States*, 46 Ct. Clms., 1.)

Appointments of internal-revenue agents, internal-revenue inspectors, clerks, messengers, and deputy collectors under the act of October 3, 1913. (T. D. 2251.)

Nothing in section 4, act of August 5, 1882 (22 Stat., 255), shall be construed to prevent the Commissioner of Internal Revenue from detailing one revenue agent for duty in his office. (Appendix, p. 695.)

Sec. 1. [*Extract from act of April 17, 1900 (31 Stat., 107).*] * * * The compensation of the chief of the internal-revenue agents shall not exceed ten dollars per day, and of the other agents not exceeding seven dollars per day each; and for per diem in lieu of subsistence, absent on duty from their legal residence, said agents shall receive at a rate to be fixed by the Secretary of the Treasury, not exceeding three dollars per day. * * *

Compensation.

Agents examining accounts.

SEC. 1. [*Act of February 3, 1905 (33 Stat., 631, 652).*] Internal-revenue agents assigned to the duty of examining accounts of collectors of internal revenue shall receive for per diem in lieu of subsistence, when absent from their legal residences on duty, a sum, to be fixed by the Commissioner of Internal Revenue, approved by the Secretary of the Treasury, not to exceed four dollars.

Internal-revenue agents and inspectors are not entitled to compensation nor per diem in lieu of subsistence when sick; neither can they be allowed annual leave. (T. D. 1580.)

Salaries not to be paid until after close of the month. (T. D. 1202.)

Compensation of revenue agents and inspectors. (24 Compt. Dec., 500.)

Leave of absence.

SEC. 1302. [*Act of February 24, 1919 (40 Stat., 1057).*] That all internal-revenue agents and inspectors shall be granted leave of absence with pay, which shall not be cumulative, not to exceed thirty days in any calendar year, under such regulations as the Commissioner, with the approval of the Secretary, may prescribe.

Subsistence allowance outside of District of Columbia.

SEC. 13. [*Act of August 1, 1914 (38 Stat., 680).*] The heads of executive departments and other Government establishments are authorized to prescribe per diem rates of allowance not exceeding \$4 in lieu of subsistence to persons engaged in field work or traveling on official business outside of the District of Columbia and away from their designated posts of duty when not otherwise fixed by law. For the fiscal year nineteen hundred and sixteen and annually thereafter estimates of appropriations from which per diem allowances are to be paid shall specifically state the rates of such allowances.

Posts of duty of employees—per diem in lieu of subsistence.

SEC. 1. [*Act of May 10, 1916 (39 Stat., 66, 87).*] Hereafter the Commissioner of Internal Revenue shall determine and designate the posts of duty of all employees of the Internal Revenue Service engaged in field work or traveling on official business outside of the District of Columbia, and when ordered from their designated posts of duty all internal revenue agents appointed under section thirty-one hundred and fifty-two, Revised Statutes, as amended, and cotton-futures attorneys, may be granted per diem in lieu of subsistence not exceeding \$4, and, when ordered from their designated posts of duty, income-tax agents and inspectors, special gaugers, and special employees may be granted a per diem in lieu of subsistence not exceeding \$3, the per diem in lieu of subsistence to be fixed by the Commissioner of Internal Revenue, subject to the approval of the Secretary of the Treasury.

Per diem allowance of deputy marshals. (T. D. 2167.)

Storekeepers and their salaries.

SEC. 3153. [*Amended by act of August 15, 1876 (19 Stat., 152).*] There shall be appointed by the Secretary of the Treasury such number of internal revenue storekeepers as may be necessary, who shall each receive such

compensation, not exceeding four dollars a day, to be paid monthly by the United States, as may be determined by the Commissioner of Internal Revenue. No store-keeper shall be engaged in any other business while in the service of the United States, without the written permission of the Commissioner of Internal Revenue. Every store-keeper shall take an oath faithfully to perform the duties of his office, and shall give a bond, to be approved by the Commissioner of Internal Revenue, for the faithful discharge of his duties, in such form and for such amount as the Commissioner may prescribe.

Bond.

Bonds of gaugers, storekeepers, and storekeeper-gaugers fixed at \$5,000, Rules, Circular 576, July 2, 1900 (T. D. 171).
To be renewed every four years. (T. D. 697.)
Storekeeper's bond. Form 50 revised.
Additional bonds. (T. D. 548.)

SEC. 1. [*Extract from act of August 15, 1876, (19 Stat., 152).*] Hereafter no store-keeper shall receive a greater compensation than four dollars per day; and said gaugers and store-keepers respectively shall only receive compensation when rendering actual service.

Compensation limited.

McNeil v. United States. (35 Int. Rev. Rec., 15; 23 Ct. Cls., 413.)

That the Secretary of the Treasury may, upon the recommendation of the Commissioner of Internal Revenue, impose the duties of storekeeper and gauger upon one officer, where the amount of spirits produced at the distillery to which such officer may be assigned, is not sufficient in the judgment of the Commissioner to warrant the employment of two officers to perform the separate duties of storekeeper and gauger.

Office of "store-keeper and gauger."

The Secretary of the Treasury may issue a commission to such officer as storekeeper and gauger, but the compensation for his services as storekeeper and gauger shall be that of storekeeper only.

Compensation.

And the said officer shall before entering upon the discharge of such duties give a bond in the penal sum of not less than five thousand dollars for the faithful performance of the combined duties of storekeeper and gauger.

Bond.

SEC. 64. [*Act of August 27, 1894 (28 Stat., 509).*] That the officer holding the combined office of storekeeper and gauger, under the provisions of the legislative, executive, and judicial appropriation act, approved August fifteenth, eighteen hundred and seventy-six (Nineteenth Statutes, page one hundred and fifty-two), may be assigned by the Commissioner of Internal Revenue to perform the separate duties of a storekeeper at any distillery, or at any general or special bonded warehouse, or to perform any of the duties of a gauger under the internal-revenue laws.

Storekeeper and gauger, assignment of.

And the said officer, before entering upon the discharge of such separate duties, shall give a bond to be

Bond.

approved by the Commissioner of Internal Revenue for the faithful discharge of his duties in such form and for such amount as the Commissioner may prescribe.

Gaugers, storekeepers, and storekeeper-gaugers were covered into the classified civil service by Executive Order, May 6, 1896.

Storekeeper-gauger's bond. Form 50½ revised. (T. D. 1260.)

Under the old form of bond of a storekeeper-gauger, conditioned solely for the faithful discharge of his duties, recovery may be had only for damages actually sustained by the Government. Such bond did not cover fines and costs imposed in a criminal prosecution of such officer. April 12, 1900. (T. D. 1482.)

Assignment of storekeeper-gaugers at distilleries. (T. D. 2456.)

Compensation of storekeeper-gaugers designated as general storekeeper-gaugers. (T. Ds. 2408, 2444.)

Married women not taken as sureties. (T. D. 171.)

Compensation
at small distil-
leries.

SEC. 2. [*Extract from act of June 21, 1879 (21 Stat., 28).*] Hereafter storekeepers at distilleries that mash less than sixty bushels of grain per day shall be allowed not exceeding fifty dollars per month. But when one person acts as storekeeper and gauger, his salary shall not exceed four dollars per day for the time actually employed.

Storekeepers are not assigned to distilleries of this capacity, but storekeeper-gaugers are so assigned.

Compensation.

[*Act of February 24, 1911 (36 Stat., 928).*] Hereafter storekeepers, gaugers, and storekeeper-gaugers who are assigned to distilleries with a registered capacity of twenty bushels or less, or who are assigned to other places where the compensation is now less than three dollars a day, shall receive three dollars a day for services.

Storekeepers' and storekeeper-gaugers' monthly bills. (Regulations No. 2, revised, p. 139.)

Assignments of storekeepers and gaugers must be made by the Commissioner of Internal Revenue upon the recommendation of the collector. (T. D. 20695.)

Assignment of storekeeper-gaugers. (Cir. No. 712; T. D. 1280; Regulations No. 7, revised, p. 43.)

Transfer of storekeeper-gaugers. (T. D. 1331.)

Compensation
of storekeeper-
gauger.

[*Act of June 28, 1902 (32 Stat., 492).*] The internal-revenue officer holding the combined office of storekeeper and gauger shall hereafter be known and denominated as a storekeeper-gauger, and when performing the combined duties of storekeeper-gauger, or when assigned by the Commissioner of Internal Revenue to perform the duties of a storekeeper only at any distillery, or at any general or special bonded warehouse, he shall receive for his services the compensation of storekeeper only; but when assigned by the Commissioner of Internal Revenue to perform the duties of gauger only, under the internal-revenue laws, as provided by those laws, he shall receive only the compensation for his services and the traveling

expenses which are allowed by law to United States gaugers.

Assignment of storekeeper-gaugers to distilleries, general and special warehouses, etc. (T. D. 2438.)

SEC. 3154. One or more storekeepers shall be assigned by the Commissioner of Internal Revenue to every bonded or distillery warehouse established by law; and any storekeeper may be transferred * * * by the Commissioner of Internal Revenue, from one warehouse to another. Assignment and transfer of storekeepers.

In the original section power was given to supervisors of internal revenue to transfer storekeepers, but those offices (supervisors) were abolished by the act of August 15, 1876. (19 Stat., 143.)

Internal revenue officers expected to serve where services can be employed to best advantage. (T. D. 1853.)

Transfer of storekeepers. (Sec. 3163, p. 92.)

SEC. 63. [Act of August 27, 1894 (28 Stat., 509), amended by act of May 13, 1910 (36 Stat., 369).] Compensation when traveling.

That storekeepers, storekeeper-gaugers, and gaugers, when traveling to or from assignments, or when transferred from one assignment to another, either in the same district or in different districts, shall receive the same compensation per day during the time necessarily occupied in traveling that they would be entitled to if on duty at the place to which assigned or transferred, or from which relieved, together with actual and necessary traveling expenses.

Compensation and traveling expenses of storekeepers, storekeeper-gaugers, and gaugers. (T. D. 1632; T. D. 1822.)

Traveling expenses while on leave not allowed. (T. D. 1877.)

Regulations No. 2, relating to traveling expenses of deputy collector where each charge is less than one dollar and does not require a voucher, made applicable to all internal revenue field officers and employees. (T. D. 1690.)

SEC. 1. [Act of April 17, 1900 (31 Stat., 107).] The Commissioner of Internal Revenue is authorized to detail gaugers, storekeeper-gaugers, and storekeepers appointed in one district for special or regular duty in other districts, and the accounts of gaugers, storekeeper-gaugers, and storekeepers so detailed shall be adjusted and paid in the district where they are appointed the same as if assigned to regular duty, without regard to the number of districts in which they may have been employed in any one month, the same as if all their services had been performed and expenses incurred in the district in which appointed, and the order of the Commissioner of Internal Revenue transferring gaugers, storekeeper-gaugers, or storekeepers to special work shall be accepted by the accounting officers of the Treasury Department as full authority for proper expenses incurred by said Accounts of gaugers, storekeeper-gaugers, and storekeepers detailed.

gaugers, storekeeper-gaugers, or storekeepers, while so assigned.

Laundry charges not allowed in expense accounts of any employee of field force. (T. D. 1878.)

Temporary
storekeeper.

SEC. 3155. In case of the absence of any internal-revenue storekeeper by reason of sickness or other cause, the collector having control of the warehouse may designate a person to have temporary charge thereof, who shall, during such absence, perform the duties and receive the pay of the storekeeper for the time he may be so employed, and shall for any violation of the law be subject to the same punishment as storekeepers.

Storekeepers' duties. (Secs. 3267, 3271, 3273, 3274, 3287, 3295, 3301, 3302.)

Penalties prescribed in case of storekeepers. (Sec. 3300, p. 259.)

Concerning designations during temporary absence of storekeepers or storekeeper-gaugers. (Circular letter, October 29, 1895; 41 Int. Rev. Rec., 445.) (Regulations No. 7, revised, p. 40.)

Gaugers.

SEC. 3156. The Secretary of the Treasury shall appoint in every collection district where they may be necessary, one or more internal-revenue gaugers, who shall each take an oath faithfully to perform his duties, and shall give bond, with one or more sureties, satisfactory to the Commissioner of Internal Revenue, for the faithful discharge of the duties assigned to him by law or regulations; and the penal sum of said bond shall not be less than five thousand dollars, and said bond shall be renewed or strengthened as the Commissioner of Internal Revenue may require. The duties of every such gauger shall be performed under the supervision and direction of the collector of the district to which he may be assigned, or of the collector in charge of exports at any port of entry to which he may be assigned.

Gauger's bond. Form 39 revised.

Compromise of gauger's bond. (Decision of Secretary Sherman, adverse; 23 Int. Rev. Rec. (1877), 139.)

New bonds can not be accepted from gaugers so as to release old bondsmen from responsibility. (30 Int. Rev. Rec. (1884), 197.)

The right of action on the bond prescribed by section 3156 is reserved to the Government, notwithstanding an indictment, conviction, and sentence under section 3169, unless there is an averment of satisfaction of the latter. (United States v. Cullerton. 8 Biss., 106; 24 Int. Rev. Rec., 68.)

The offices of gauger, storekeeper, and storekeeper-gauger, where the compensation does not exceed \$3 per day, or shall not exceed in the aggregate \$500 per annum, are not subject to competitive examination or registration, but persons appointed to said offices are subject to an examination to be prescribed by the Secretary of the Treasury, and to be taken before appointment, when possible. (Circular No. 538, revised; T. D. 21397.)

For instructions as to the duties of gaugers, see Regulations No. 11, revised, Gaugers' Manual (1913); Gaugers' Weighing Manual (1911); and Reg. No. 7, revised (1914).

SEC. 65. [*Act of August 27, 1894 (28 Stat., 509.)*] That internal-revenue gaugers may be assigned to duty at distilleries, rectifying houses, or wherever gauging is required to be done, and transferred from one place of duty to another, by the Commissioner of Internal Revenue, in like manner as storekeepers and storekeepers and gaugers are now assigned and transferred. Assignment of gaugers.

Gauger's returns. (Sec. 3291, p. 239.)

Penalties prescribed in case of gaugers. (Secs. 3290, 3292, p. 239.)

Gauging instruments to be prescribed by the Commissioner. (Sec. 3249, p. 190.)

Transfer of gaugers. (Sec. 3163 amended.)

Internal revenue officers expected to serve where services can be employed to best advantage. (T. D. 1853.)

SEC. 3157. Gaugers shall be entitled to receive such fees, to be determined by the quantity gauged, as may be prescribed by the Commissioner of Internal Revenue; and said fees, together with their actual and necessary traveling expenses, shall be verified by their oaths, and shall be paid by the United States monthly. Gaugers' fees.

SEC. 1. [*Extract from act of June 19, 1878 (20 Stat., 187.)*] * * * And hereafter the compensation of gaugers shall not exceed five dollars per day while actually employed. Compensation of gaugers.

Compensation of gauger at winery. Sec. 402, act of September 8, 1916; p. 90.

SEC 1. [*Extract from act of August 15, 1876 (19 Stat., 143, 152.)*] * * * gaugers * * * shall only receive compensation when rendering actual service.

SEC. 1. [*Act of July 7, 1898 (30 Stat., 656.)*] Gaugers employed in gauging fruit brandy, and gaugers specially detailed for special duty under the direction of the Commissioner of Internal Revenue, may be paid, at the discretion of the Commissioner of Internal Revenue, either by fees to be determined by the quantity gauged, or by a daily compensation not to exceed five dollars per diem while actually employed; and in calculating the daily compensation of all gaugers paid by fees, the quantity gauged for which fees are paid may be determined by dividing the aggregate gallons of spirits gauged by the number of days on which the gauger was actually employed during the month. Gaugers for special duty.

Compensation.

Daily compensation, how calculated.

A gauger can not delegate his authority to any person; no substitution is authorized. (United States v. Bittinger, 21 Int. Rev. Rec., 342; 24 Fed. Cas. No. 14599.)

Special gaugers not entitled to traveling expenses in going to and returning from their homes on leave of absence. (T. D. 1722; Aug. 28, 1911.)

Gaugers' fees, Circular No. 205. Regulations No. 2, revised, p. 88. Gauger's Manual.)

See T. D. 1682, May 20, 1910, as to compensation and travelling expenses. (T. D. 1722; T. D. 1822.)

Section 3169, Revised Statutes (second paragraph), makes it an offense for a United States gauger to re-

ceive any compensation except as by law prescribed for the performance of his duty.

Rectifiers are entitled to have gaugers do their work promptly and accurately without any other pay than the pay received from the Government. Violation of law on the part of a United States gauger in receiving money from rectifiers for gauging spirits. (*United States v. Brunjes*, 36 Int. Rev. Rec., 47.)

A gauger's pay being fixed by a general regulation, his case comes within the prohibition of section 1765, and he can not receive pay for another service rendered at the same time. (*Hedrick v. United States*, 16 Ct. Cls., 88.)

Unofficial gauging for distillers and others. (Regulations No. 2, revised, p. 147.)

Compensation of officers who reinspect spirits. (T. D. 1793.)

Assignment to
fruit distilleries
and wineries.

SEC. 402. [*Act of September 8, 1916 (39 Stat., 756).*]

(g) * * * the said Commissioner is hereby authorized to assign to any such distillery and to each winery where wines are to be fortified such number of gaugers or storekeeper-gaugers in the capacity of gaugers as may be necessary for the proper supervision of the manufacture of brandy or the making or fortifying of wines subject to tax imposed by this section; and the compensation of such officers shall not exceed \$5 per diem while so assigned, together with their actual and necessary traveling expenses, and also a reasonable allowance for their board bills, to be fixed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, but not to exceed \$2.50 per diem for said board bills.

Assignment and compensation of gaugers at fruit distilleries. (T. D. 2491.)

Board bills of gaugers and storekeeper-gaugers not to be charged in the officer's account where assigned to fruit distilleries. (T. D. 1719.)

Leave of absence.

[*Act of June 23, 1910 (36 Stat., 592).*] That storekeepers, gaugers, and storekeeper-gaugers shall be, and are hereby, granted a cumulative annual leave of absence, with pay, not to exceed in the aggregate fifteen days for any one year: *Provided*, That said leave of absence is so computed as not to exceed one and one-quarter days for each twenty-six days said storekeepers, gaugers, and storekeeper-gaugers are actually assigned to duty: *Provided further*, That such leave shall be operative under such rules and regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe.

(See T. D. 1699; T. D. 1708; T. D. 1775; T. D. 1877.)

Officers in commission not to exceed 15 per cent in excess of the number employed.

SEC. 1. [*Act of July 7, 1884 (23 Stat., 172).*] And no collector in any district shall recommend, nor shall there be appointed or commissioned, more deputy collectors, storekeepers, storekeepers and gaugers, gaugers, inspectors, or other officers, or allowed to remain in commission more of any of said officers, at any one time, than

fifteen per cent in excess of the number engaged in performing duty at the time, and indispensably necessary for the performance of said duty.

See also legislative, executive, and judicial appropriation act for fiscal year ending June 30, 1886. (Act of March 3, 1885; 23 Stat., 404; Supp. R. S., vol. 1, p. 484; Commissioner's Report, 1886, p. cxii.)

Circular No. 310, limiting the number of relatives permitted to hold position in the Internal-Revenue service in each district. (33 Int. Rev. Rec., 101.)

SEC. 3158. Every internal-revenue officer, whose payment, charges, salary, or compensation are composed, wholly or in part, of fees, commissions, allowances, or rewards, from whatever source derived, shall be required to render to the Commissioner of Internal Revenue, under regulations to be approved by the Secretary of the Treasury, a statement under oath setting forth the entire amount of such fees, commissions, emoluments, or rewards of whatever nature, or from whatever source received, during the time for which said statement is rendered; and any false statement knowingly and willfully rendered under the requirements of this section, or regulations established in accordance therewith, shall be deemed willful perjury, and punished in the manner provided by law for the crime of perjury. And any neglect or omission to render such statement when required shall be punished by a fine of not less than two hundred dollars, nor more than five hundred dollars, in the discretion of the court.

Statement of fees, etc.

Penalty.
Act Feb. 18,
1876. (18 Stat.,
319.)

Punishment for perjury. (Sec. 125, Criminal Code, Appendix, p. 674.)

[SECS. 3159 AND 3160.] [*Repealed by legislative, executive, and judicial appropriation act of August 15, 1876 (19 Stat., 143).*]

Office of supervisor abolished.

SEC. 3161. In any port of the United States where there is more than one collector of internal revenue, the Secretary of the Treasury may designate one of them to have charge of all matters relating to the exportation of articles subject to tax under the internal-revenue laws; and at any port where he may deem it necessary, there shall be appointed by him an officer to superintend all matters of exportation and drawback, under the direction of the collector. The compensation of the officers last named shall be prescribed by the Secretary of the Treasury, but shall not exceed, in any case, an annual rate of two thousand dollars, excepting at New York, where such compensation shall be at the annual rate of three thousand dollars. At any port where there is no superintendent of exports, all the duties and services required of such officers shall be performed by the collector of internal revenue designated to have charge of exportation. All the books, papers, and documents in the bureau of drawbacks in the respective ports, relating to the drawback of taxes paid under the internal-

Officers in charge of exportations and drawbacks.

revenue law, shall be delivered to the collector of internal revenue in charge of exportation.

Collectors and superintendents of exports may administer oaths.

SEC. 3162. Every collector of internal revenue and every superintendent of exports and drawbacks is authorized to administer such oaths and to certify to such papers as may be necessary under any regulation prescribed under the authority of the internal-revenue laws.

See section 3165 in regard to general authority of collector to administer oaths.

Duties of collectors and internal-revenue agents.

SEC. 3163. [*Amended by sec. 2, act of March 1, 1879 (20 Stat., 327).*] Every collector within his collection district and every internal-revenue agent shall see that all laws and regulations relating to the collection of internal taxes are faithfully executed and complied with, and shall aid in the prevention, detection, and punishment of any frauds in relation thereto. And it shall be the duty of every collector and of every internal-revenue agent to report to the Commissioner in writing any neglect of duty, incompetency, delinquency, or malfeasance in office of any internal-revenue officer or agent of which he may obtain knowledge, with a statement of all the facts in each case, and any evidence sustaining the same.

Commissioner may transfer certain officers.

The Commissioner may also transfer any inspector, gauger, storekeeper, or storekeeper and gauger, from one distillery, or other place of duty, or from one collection district, to another.

Duty of collector to collect taxes. (Sec. 3183, p. 115.)

Injunction will not lie against an executive officer to prevent his performance of acts directed by law. (Opinion of Solicitor of Treasury in the case of Sidenburg & Co., 27 Int. Rev. Rec. 47.)

Proper course to be pursued by a disbursing officer of the United States who is enjoined by a State court from paying money. (Op. Atty. Gen., 25 Int. Rev. Rec., 53; 16 Op. Atty. Gen., 257.)

Courts will not interfere by injunction with the exercise by the executive officers of duties requiring judgment or discretion. (Gaines v. Thompson, 7 Wall., 347; Litchfield v. Register and Receiver, 9 Wall., 575.)

As to injunctions against collectors. (See under sec. 3224; also Haffin v. Mason, 15 Wall., 671; 17 Int. Rev. Rec., 118; 16 Op. Atty. Gen., 257; 25 Int. Rev. Rec., 53.)

Trespass will not lie against a collector for seizure unless the act was tortious or unauthorized. (Averill v. Smith, 17 Wall., 82; 17 Int. Rev. Rec., 171.)

Powers requiring judgment and discretion conferred upon executive officers must be exercised with reason. When clearly reasonable the courts will not interfere with officers acting under discretionary powers. When found to be clearly unreasonable such action will be held void. (Woolner v. Rennick, 170 Fed., 662; T. D. 1425.)

An officer or agent of the United States engaged in the performance of a duty arising under the laws and authority of the United States is not liable to a criminal prosecution in the courts of a State for acts done by him in his official capacity. (In re Waite, 81 Fed., 359.)

The collection by internal-revenue officers of a tax erroneously assessed does not constitute a tort. (*Armour v. Roberts*, 151 Fed., 846.)

Execution not to issue against officers in case of probable cause. (Sec. 989, p. 654, Appendix.)

Collector acting in good faith under color of office not responsible individually. (*Public Service Ry. Co. v. Herold*, 219 Fed., 301.)

Internal revenue officers expected to serve where services can be employed to best advantage. (T. D. 1853.)

SEC. 1. [*Extract from act of August 15, 1876 (19 Stat., 152).*] * * * The powers of transfer, and of suspension, of officers conferred upon supervisors by section thirty-one hundred and sixty-three of the Revised Statutes, are hereby vested in the Commissioner of Internal Revenue; and all other powers conferred, and duties imposed, by said section upon supervisors, are hereby conferred and imposed upon collectors of internal revenue within their respective districts. In case of the supervision [suspension] of a collector, under the power hereby conferred, the Commissioner of Internal Revenue shall, as soon thereafter as practicable, report the case to the President through the Secretary of the Treasury for such action as he may deem proper. * * *

Certain powers under sec. 3163 vested in Commissioner.

Certain powers, etc., under sec. 3163, conferred upon collectors.

Commissioner to report suspension of collector.

The powers and duties specified in section 3163, Revised Statutes, at the time of the above enactment of August 15, 1876, were as follows:

"SEC. 3163. Every supervisor, under the direction of the Commissioner, shall see that all laws and regulations relating to the collection of internal taxes, are faithfully executed and complied with; and shall aid in the prevention, detection, and punishment of any frauds in relation thereto, and examine into the efficiency and conduct of all officers of internal revenue; and for such purposes he shall have power to examine all persons, books, papers, accounts, and premises, to administer oaths, and to summon any person to produce books and papers, or to appear and testify under oath before him, and to compel a compliance with such summons in the same manner as collectors may do. He shall report in writing to the Commissioner of Internal Revenue any neglect of duty, incompetency, delinquency, or malfeasance in office of any internal-revenue officer of which he may obtain knowledge, with a statement of all the facts in each case, and any evidence sustaining the same. He may, by notice in writing, suspend from duty any inspector, gauger, or storekeeper, and he may suspend any collector for fraud, or gross neglect of duty, or abuse of power. In case of the suspension of any inspector, gauger, or storekeeper, he shall immediately notify the collector of the proper district and the Commissioner of Internal Revenue, and within three days thereafter report his action and his reasons therefor, in writing, to the Commissioner. In case of the suspension of any collector, he shall immediately report his action to the Commissioner, with his reasons therefor, in writing, and the Commissioner, in all cases of suspension, shall thereupon take such action as he may deem proper. Every supervisor may also transfer any inspector, gauger, or storekeeper from one distillery, or other place of duty, or from one collection district, to another."

Suspension of collector. (18 Op. Atty. Gen., 318.)

Charges against subordinate officers or employees by collectors or agents. (T. D. 56.)

The extent and limitation of the authority of supervisors to compel the production of books and papers under section 3163 were discussed in the decision rendered by Judge Treat, in the United States district court, district of Missouri, in the case wherein Frederick Becker refused to obey the order of Supervisor Meyer to produce certain books and papers, and wherein an attachment was asked by the supervisor to compel obedience to his subpoena. (21 Int. Rev. Rec., 243; Fed. Cas. No. 1208.)

Law not unconstitutional in giving these officers the right to examine books, etc. (Stanwood v. Green, 11 Int. Rev. Rec., 134; Fed. Cas. No. 13301.)

The authority given to the supervisor to enter without warrant and examine the premises of parties was valid as a civil proceeding, and not in conflict with the fourth amendment to the Constitution, nor was his authority to compel parties to attend and produce books and testify, in conflict with the fifth amendment to the Constitution. (In re Meador & Brothers (1869), 10 Int. Rev. Rec., 74; Fed. Cas. No. 9375. See also Perry v. Newsome, 10 Int. Rev. Rec., 20; Fed. Cas., No. 11009; Stanwood v. Fordyce, 13 Int. Rev. Rec., 77; Fed. Cas. No. 15130.)

Collectors to
report violations
of law to Dis-
trict Attorney.

SEC. 3164. [*Amended by sec. 1317, act of February 24, 1919 (40 Stat., 1057).*] It shall be the duty of every collector of internal revenue having knowledge of any willful violation of any law of the United States relating to the revenue, within thirty days after coming into possession of such knowledge, to file with the district attorney of the district in which any fine, penalty, or forfeiture may be incurred, a statement of all the facts and circumstances of the case within his knowledge, together with the names of the witnesses, setting forth the provisions of law believed to be so violated on which reliance may be had for condemnation or conviction.

Section 838, Revised Statutes, provides that it is the duty of the district attorney to whom any collector of internal revenue shall report any case in which any fine, penalty, or forfeiture has been incurred for violation of the internal-revenue law, to cause the proper proceedings to be commenced and prosecuted without delay, for the fines, penalties, and forfeitures provided, unless, upon inquiry and examination, he shall decide that such proceedings can not properly be sustained, or that the ends of public justice do not require that proceedings should be instituted; in which case he shall report the facts to the Commissioner of Internal Revenue for his direction. (Appendix, p. 659.)

Under the provisions of section 3460, Revised Statutes, page 363, when any property (except real estate) seized by the collector for violation of internal-revenue laws does not exceed \$500 in value it should be proceeded against by the collector, instead of being reported to the district attorney, unless a bond for costs is given as provided. (See Regulations, No. 2, revised, p. 131.)

Under existing law collectors receive no allowance from cases to be reported to United States attorneys.

Reports to United States attorneys of violations of the internal-revenue law should in all cases give sufficient data to enable them to form an opinion as to whether or not the public interests require prosecution. (T. D. 1597.)

Instructions to collectors and district attorneys relative to prosecution for violations of internal-revenue laws. (T. D. 1605.)

United States attorneys instructed to furnish copies of their reports on Form 112 to the collectors of the districts in all cases where the violation of law was not reported by the collector. (T. D. 1443.)

Violations of law to be promptly reported. (T. D. 176.)

Course to be pursued by revenue agents and collectors in cases of technical violations of law, compromises, etc. (27 Int. Rev. Rec., 397.)

Circular letter to United States attorneys relative to unnecessary prosecutions. (T. D. 1336.)

Cases to be carefully examined before proceedings are instituted. (Regulations No. 12, p. 26.)

Instructions as to reporting cases to United States attorneys for prosecution and as to proper use of Form 166. (T. D. 1813.)

Duty of collectors to look after cases in suit. (T. D. 987.)

Prosecution not commenced before indictment. (*Virginia v. Paul*, 143 U. S., 107.)

SEC. 3165. [*Amended by sec. 1317, act of February 24, 1919 (40 Stat., 1057).*] Every collector, deputy collector, internal-revenue agent, and internal-revenue officer assigned to duty under an internal-revenue agent, is authorized to administer oaths and to take evidence touching any part of the administration of the internal-revenue laws with which he is charged, or where such oaths and evidence are authorized by law or regulation authorized by law to be taken.

Revenue officers who administer oaths and take evidence.

See section 3162, page 92.

Inspectors appointed under the denatured-alcohol act not authorized to administer oaths. (T. D. 1168.)

Officers commissioned as deputy collectors to administer oaths. (T. D. 2235; T. D. 2238.)

Appointment of special gaugers as deputy collectors. (T. D. 2243.)

Deputy collectors have authority to administer oaths to sureties on distiller's bonds. (*United States v. Hardison*, 135 Fed., 419.)

SEC. 183. Any officer or clerk of any of the Departments lawfully detailed to investigate frauds, or attempts to defraud, on the Government, or any irregularity or misconduct of any officer or agent of the United States, shall have authority to administer an oath to any witness attending to testify or depose in the course of such investigation.

SEC. 8. [*Act of August 24, 1912 (37 Stat., 487).*] After June thirtieth, nineteen hundred and twelve, postmasters, assistant postmasters, collectors of customs, collectors of internal revenue, chief clerks of the various executive departments and bureaus, or clerks designated by them for the purpose, the superintendent, the acting superintendent, custodian, and principal clerks of the various national parks and other Government reservations, superintendent, acting superintendents, and principal clerks of the different Indian superintendencies or Indian agencies, and chiefs of field parties, are required, empowered, and authorized, when requested, to administer oaths, required by law or otherwise, to accounts for travel or other expenses against the United States, with like force and effect as officers having a seal; for such services when so

Oaths to expense accounts.

rendered, or when rendered on demand after said date by notaries public, who at the time are also salaried officers or employees of the United States, no charge shall be made; and on and after July first, nineteen hundred and twelve, no fee or money paid for the services herein described shall be paid or reimbursed by the United States.

(Dept. Cir. No. 43, September 9, 1912; 19 Compt. Dec., 153, 181.)

Revenue officers authorized to make seizures.

SEC. 3166. Any officer of internal revenue may be specially authorized by the Commissioner of Internal Revenue to seize any property which may by law be subject to seizure, and for that purpose such officer shall have all the power conferred by law upon collectors; and such special authority shall be limited in respect of time, place, and kind and class of property, as the Commissioner may specify: *Provided*, That no collector shall be detailed or authorized to discharge any duty imposed by law upon any other collector.

Seizure may be made by any unofficial person, but at the peril of responsibility in damages in case the seizure is not adopted by the Government and the property is not condemned. (13 Op. Atty. Gen., 253.)

A seizure implies an actual caption of the thing seized. (17 Op. Atty. Gen., 82.)

As to seizure of stocks. (Miller v. United States, 11 Wall., 268.)

Where a lot of ale, within the brewery in which it was made, was seized under process emanating from a State court as a forfeiture to the State and is in the custody of the sheriff awaiting judgment of the court, possession of the sheriff can not be legally interfered with by internal-revenue or other officers of the United States. (15 Op. Atty. Gen., 370.)

See section 3453 in regard to seizures, page 594.

Revenue officers to cooperate with State officers in the suppression of certain violations of law. (T. D. 1327; Int. Rev. Circular No. 716.)

Unreasonable searches and seizures; seizures of correspondence. (T. D. 1964.)

Revenue officers disclosing operations of manufacturers, etc.; penalty.

SEC. 3167. [*Amended by sec. 1317, act of February 24, 1919 (40 Stat., 1057).*] It shall be unlawful for any collector, deputy collector, agent, clerk, or other officer or employee of the United States to divulge or to make known in any manner whatever not provided by law to any person the operations, style of work, or apparatus of any manufacturer or producer visited by him in the discharge of his official duties, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any income return, or to permit any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; and it shall be unlawful for any person to print or publish in any manner whatever not provided by law any income return, or any part thereof or source of income, profits, losses, or expenditures appearing in any income return; and any offense against the foregoing provision shall be

a misdemeanor and be punished by a fine not exceeding \$1,000 or by imprisonment not exceeding one year, or both, at the discretion of the court; and if the offender be an officer or employee of the United States he shall be dismissed from office or discharged from employment.

Information contained in returns or in reference to office procedure with respect to auditing returns, handling of claims, etc., not to be divulged by employees of Bureau of Internal Revenue. (T. D. 2903.)

Penalty for disclosing information relative to statements or returns required by the opium act, pages 422, 423.

This section applies to revenue agents. (Sec. 3152, p. 81.)

Furnishing statistical information to private persons. (34 Int. Rev. Rec., 117.)

Circular letter of August 18, 1897; information from official records. (43 Int. Rev. Rec., 318.)

Access to departmental records. (Dept. Cir. No. 13; April 26, 1913.)

Regulations prohibiting the giving out by collectors of records in their offices, or copies thereof, for purposes not contemplated by the internal-revenue laws. (Regulations No. 12, revised, pp. 45, 46; T. D. 18347, January 21, 1898.)

Circular No. 583 (T. D. 226); Circular No. 651 (T. D. 727.)

Circular No. 354 (36 Int. Rev. Rec., 397.) Collectors may furnish for publication monthly statements of the aggregate receipts from sale of stamps for tobacco, snuff, cigars, and cigarettes, but any information that would disclose the business done by or the value of stamps issued to any individual manufacturer must be withheld. (T. D. 263.)

Copies of special tax returns can not be furnished for use in trial of persons indicted for violation of State laws. (T. D. 766.)

Data from returns made by distiller not to be furnished for use of private litigants. (T. D. 224.)

Instructions as to giving testimony in State courts: Revenue officers are prohibited from testifying in cases not arising under the laws of the United States as to facts that come to their knowledge in their official capacity. (T. D. 1218.)

Instructions to collector as to obeying subpoena and producing records. (34 Int. Rev. Rec., 261.)

A collector of internal revenue refusing to testify or furnish copies of official papers, acting under instructions from Department. (In re Comingore, 96 Fed., 552; T. D. 21584; Boske v. Comingore, 177 U. S., 459; T. D. 104; In re Lamberton 124 Fed., 446; T. D. 689.) See section 882, page 644.

Collectors can send, in obedience to a subpoena duces tecum issued for the purpose of having in court certain documents or records, any clerk who can give the necessary testimony. (T. D. 1113.)

A storekeeper and gauger stationed at a distillery has no right to divulge information in regard to the business of the distiller obtained by him solely in his official capacity as an internal-revenue officer, even when called as a witness in a State court. (Stegall v. Thurman, 175 Fed., 813; T. D. 1616.)

Employees of the Internal Revenue Bureau are prohibited from disclosing information relative to the business of the bureau, except in the manner authorized by law. (T. D. 1745.)

Regulations as to furnishing United States attorneys with certified copies of returns, Regulations No. 33, revised, art. 227.

Executive order relative to inspection of returns. (T. D. 2016.)

Departmental information, how furnished. (Dept. Cir. No. 104, August 3, 1894.)

Revenue officers forbidden to furnish unauthorized statements or certificates in support of claims for remission of tax. (T. D. 2443.)

Officers not to be interested in certain manufactures; penalty.

Act February 27, 1877 (19 Stat., 20), correcting verbal error.

SEC. 3168. Any internal-revenue officer who is or shall become interested, directly or indirectly, in the manufacture of tobacco, snuff, or cigars, or in the production, rectification, or redistillation of distilled spirits, shall be dismissed from office; and every officer who becomes so interested in any such manufacture or production, rectification, or redistillation, or in the production of fermented liquors, shall be fined not less than five hundred dollars nor more than five thousand dollars.

See section 3152, page 81.

See sections 1788 and 1789, page 671, as to prohibitions against officers in respect to certain kinds of business.

See section 244, page 702, as to certain business forbidden to clerks in Treasury Department.

Circular No. 456, May 5, 1896; Government officer not authorized to fill in or date blank requests of distillers for re-gauge.

Circular No. 456 should be construed as prohibiting internal-revenue officers from acting as agents for distillers in any capacity. (42 Int. Rev. Rec., 354.)

Circular No. 665, as to the prohibition of revenue officers acting as agents for the sale of books to distillers, brewers, and others, denounces the practice as detrimental to the public service and against the interests of the Government. (T. D. 831, October 6, 1904.)

Officers of internal revenue guilty of extortion, receiving unlawful fees, and of other offenses.

SEC. 3169. Every officer or agent appointed and acting under the authority of any revenue law of the United States—

First. Who is guilty of any extortion or willful oppression under color of law; or,

Second. Who knowingly demands other or greater sums than are authorized by law, or receives any fee, compensation, or reward, except as by law prescribed, for the performance of any duty; or,

Third. Who willfully neglects to perform any of the duties enjoined on him by law; or,

Fourth. Who conspires or colludes with any other person to defraud the United States; or,

Fifth. Who makes opportunity for any person to defraud the United States; or,

Sixth. Who does or omits to do any act with intent to enable any other person to defraud the United States; or,

Seventh. Who negligently or designedly permits any violation of the law by any other person; or,

Eighth. Who makes or signs any false entry in any book, or makes or signs any false certificate or return, in

any case where he is by law or regulation required to make any entry, certificate, or return; or,

Ninth. Who, having knowledge or information of the violation of any revenue law by any person, or of fraud committed by any person against the United States under any revenue law, fails to report, in writing, such knowledge or information to his next superior officer and to the Commissioner of Internal Revenue; or,

Tenth. Who demands, or accepts, or attempts to collect, directly or indirectly, as payment or gift, or otherwise, any sum of money or other thing of value for the compromise, adjustment, or settlement of any charge or complaint for any violation or alleged violation of law, except as expressly authorized by law so to do, shall be dismissed from office, and shall be held to be guilty of a misdemeanor, and shall be fined not less than one thousand dollars nor more than five thousand dollars, and be imprisoned not less than six months nor more than three years. The court shall also render judgment against the said officer or agent for the amount of damages sustained in favor of the party injured, to be collected by execution. One-half of the fine so imposed shall be for the use of the United States, and the other half for the use of the informer, who shall be ascertained by the judgment of the court.

Section 3152 makes this section applicable to internal-revenue agents. See p. 81.

Who are officers? (*United States v. Hartwell*, 6 Wall., 385; *United States v. Germaine*, 99 U. S., 508; 26 Op. Atty. Gen., 363; 27 Id., 219.)

In *United States v. Mount*, 124 U. S., 363, 307, the court, following the decision in *United States v. Germaine*, 99 U. S. 508, said that "under the Constitution of the United States all its officers were appointed by the President, by and with the consent of the Senate, or by a court of law or the head of a Department" (members of the Cabinet), and that unless so appointed they are not, "strictly speaking," officers of the United States.

Congress may use the word "officer" in a more popular sense and the courts in construing an act of Congress must ascertain its meaning. (*United States v. Hendee*, 124 U. S., 300.)

It would seem to be clear that the recognition in a Federal Statute of a person in the public employ as an officer of the United States constitutes the person such officer. (26 Op. Atty. Gen., 363.)

As to a member of Congress being an officer. (17 Op. Atty. Gen., 420; *Lamar v. United States*, 241 U. S. 103.)

Extortion is defined as "the unlawful taking by an officer, under color of his office, of any money or thing of value that is not due to him or more than his due, or before it is due." (4 Blacks. Com., 141. See also *United States v. Deaver*, 14 Fed., 595.)

Knowingly demanding greater sums than are authorized by law. (*United States v. Highleyman*, 22 Int. Rev. Rec., 138; Fed. Cas. No. 15961.)

Violation of law on the part of a United States gauger in receiving money from a rectifier for gauging spirits. (*United States v. Brunjes*, 36 Int. Rev. Rec., 47.)

Conspiracy. Officers who conspire with others to defraud the United States may be prosecuted under section 3169 or section 37 of the Criminal Code (act of March 4, 1909, p. 677). Section 37 requires proof of some overt act which is not required under section 3169. (*Grunberg v. United States*, 145 Fed., 81.)

Indictment of storekeeper-gauger for negligently permitting a violation of law. Intent not necessarily an ingredient. (*Mason v. United States*, 162 Fed., 23; T. D. 1408.)

Officer of the United States guilty of extortion. (Sec. 85, act March 4, 1909, Criminal Code, 35 Stat., 1088.)

Extortion by internal-revenue informers. (Sec. 145, act March 4, 1909, p. 677.)

Bribery. (Secs. 39 and 117, act March 4, 1909, pp. 675, 676.)

Embezzlement. (Secs. 86, 87, 89, 90, 91, 93, 94, Act March 4, 1909, 35 Stat., 1088, pp. 667-669.)

Penalty for failure to make reports. (Sec. 1780; superseded by sec. 101, Criminal Code, act March 4, 1909, 35 Stat., 1088; Appendix, p. 671.)

False acknowledgements. (Sec. 31, act March 4, 1909, Criminal Code, 35 Stat., 1094.)

Penalty for making false certificate, etc. (Sec. 106, act March 4, 1909, Criminal Code, 35 Stat., 1107.)

No limitation of suits against officers. (See "Statute of Limitations," Appendix, p. 653.)

Officers forbidden to aid violators of internal-revenue laws in preparing statements or affidavits. (T. D. 1607.)

Officers forbidden to act as agents for prosecution of claims or receiving any gratuity or share or interest in any claim. (Sec. 109, Criminal Code; act of March 4, 1909. (35 Stat., 1088.)

An officer of internal revenue, named as such in the indictment, can not be jointly indicted, for a conspiracy, to defraud the revenue, with private persons. (*United States v. McDonald*, 3 Dill., 543; Fed. Cas. No. 15,670.)

Two offenses constituting substantially one offense joined in the same indictment; a separate sentence rendered on the verdict of each count illegal. (*Ex parte Joyce*, 23 Int. Rev. Rec., 297; 13 Fed. Cas. No. 7556.)

Officers prohibited from soliciting for advertising from taxpayers. (T. D. 2227.)

Collector, etc.,
issuing stamps
before payment.

Penalty.

SEC. 1. [*Act of March 1, 1879 (20 Stat., 327).*] That any collector of internal revenue, or any deputy collector or other employee of, or person acting for, such collector, who shall issue any stamp or stamps indicating the payment of any internal revenue tax, before payment in full therefor has been made to the officer or person issuing the same, shall be deemed guilty of a misdemeanor, and shall be fined for each stamp thus issued an amount equal to the face value thereof, in addition to the liability of the collector on his official bond on account of such stamp; and such collector, deputy collector, or employee shall be dismissed from office.

Issuing stamps for distilled spirits to any other person than as provided by law. (Sec. 3316, p. 270.)

Receipt in lieu of stamp prohibited. (Sec. 3183, p. 115.)

Deputy collectors to give personal receipts for collections made by them. (T. D. 2341.)

SEC. 23. [*Act of February 8, 1875 (18 Stat., 307).*] That all acts and parts of acts imposing fines, penalties, or other punishment for offenses committed by an internal-revenue officer or other officer of the Department of the Treasury of the United States, or under any bureau thereof, shall be, and are hereby, applied to all persons whomsoever, employed, appointed, or acting under the authority of any internal-revenue or customs law, or any revenue provision of any law of the United States, when such persons are designated or acting as officers or deputies, or persons having the custody or disposition of any public money.

Application of laws imposing punishment on internal-revenue officers to certain other classes of persons.

SEC. 3170. Every district attorney or marshal who demands, or accepts, or attempts to collect, directly or indirectly, as payment or gift or otherwise, any sum of money or other property of value for the compromise, adjustment, or settlement of any charge or complaint for any violation or alleged violation of any provision of the internal-revenue laws, except as expressly authorized by law to do so, shall be held to be guilty of a misdemeanor, and shall be fined in double the sum or value of the money or property received or demanded, and be imprisoned for not less than one nor more than ten years.

District attorney or marshal accepting or demanding anything for compromise of violation of internal-revenue laws.

Accepting illegal fees, etc. (Sec. 18, act of May 28, 1896, 29 Stat., 140.)

SEC. 3171. [*Amended by sec. 2, act of March 1, 1879 (20 Stat., 327).*] If any officer appointed under and by virtue of any act to provide internal revenue, or any person acting under or by authority of any such officer, shall receive any injury to his person or property, in the discharge of his duty, under any law of the United States for the collection of taxes, he shall be entitled to maintain suit for damage therefor, in the circuit court of the United States, in the district wherein the party doing the injury may reside or shall be found.

Officers suffering injuries may maintain suit for damages.

Indictment alleging killing by defendants of revenue officers engaged in search for distilled spirits; indictment for conspiracy and murder under R. S. 5508, 5509. (*United States v. Patrick*, 54 Fed. 338.)

Penalties for obstructing officers. (Secs. 3177, p. 110; 3276, p. 225; secs. 65 and 140, Criminal Code, act March 4, 1909, 35 Stat., 1088, p. 674.)

For rescuing prisoners or property. (Sec. 3177, p. 110; secs. 71 and 143, act of March 4, 1909, pp. 674, 675.)

Conspiracy to prevent persons from accepting office. (Sec. 5518; sec. 21, act March 4, 1909, p. 677.)

Penalty for falsely assuming to be an officer. (Sec. 5448, act of April 18, 1884; reproduced in sec. 32, Criminal Code, act March 4, 1909; 35 Stat., 1088, p. 675.)

SEC. 1301 (d). [*Act of February 24, 1919 (40 Stat., 1057).*] (1) There is hereby created a board to be known as the "Advisory Tax Board," hereinafter called the Board, and to be composed of not to exceed six members

Advisory Tax Board created; membership; limitation of existence.

to be appointed by the Commissioner with the approval of the Secretary. The Board shall cease to exist at the expiration of two years after the passage of this Act, or at such earlier time as the Commissioner with the approval of the Secretary may designate.

Vacancies and removals; salary and expenses.

Vacancies in the membership of the Board shall be filled in the same manner as an original appointment. Any member shall be subject to removal by the Commissioner with the approval of the Secretary. The Commissioner with the approval of the Secretary shall designate the chairman of the Board. Each member shall receive an annual salary of \$9,000, payable monthly, together with actual necessary expenses when absent from the District of Columbia on official business.

Submission of questions by Commissioner; findings and recommendations.

(2) The Commissioner may, and on the request of any taxpayer directly interested shall, submit to the Board any question relating to the interpretation or administration of the income, war-profits or excess-profits tax laws, and the Board shall report its findings and recommendations to the Commissioner.

Office; audit, payment, etc., of salaries and expenses.

(3) The Board shall have its office in the Bureau of Internal Revenue in the District of Columbia. The expenses and salaries of members of the Board shall be audited, allowed, and paid out of appropriations for collecting internal revenue, in the same manner as expenses and salaries of employees of the Bureau of Internal Revenue are audited, allowed, and paid.

Witnesses and evidence.

(4) The Board shall have the power to summon witnesses, take testimony, administer oaths, and to require any person to produce books, papers, documents, or other data relating to any matter under investigation by the Board. Any member of the Board may sign subpoenas and members and employees of the Bureau of Internal Revenue designated to assist the Board, when authorized by the Board, may administer oaths, examine witnesses, take testimony and receive evidence.

The Advisory Tax Board was dissolved by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, at close of business September 30, 1919.

CHAPTER TWO.

ASSESSMENTS AND COLLECTIONS.

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Canvass of districts for objects of taxation.

SEC. 3172. [*Amended by sec. 34, act of August 27, 1894 (28 Stat., 509); reenacted by sec. 16, act of September 8, 1916 (39 Stat., 756), and by sec. 1317, act of February 24, 1919 (40 Stat., 1057).*] Every collector shall, from time to time, cause his deputies to proceed through every part of his district and inquire after and concerning all persons therein who are liable to pay any internal revenue tax, and all persons owning or having the care and management of any objects liable to pay any tax, and to make a list of such persons and enumerate said objects.

The list referred to should be on Form 24 and should contain nothing but taxes which should be reported for assessment. The report of the deputy should be made so as to reach the collector on or before the 5th day of the month succeeding that for which the report is made. (Regulations No. 1, revised, p. 9.)

Monthly visits of deputy to be discontinued. (T. D. 2236.)

For requirements as to collectors' monthly or special assessment lists, see Sec. 3184, R. S.

Instructions to collectors with reference to special-tax returns. (Circular No. 561, June 18, 1907; T. D. 92.)

For methods employed in ascertaining names of persons liable to pay special taxes as rectifiers, wholesale liquor dealers, and retail liquor dealers, see T. D. 1782.

SEC. 3173. [*Amended by sec. 34, act of August 27, 1894 (28 Stat., 509), sec. 16, act of September 8, 1916 (39 Stat., 756), and sec. 1317, act of February 24, 1919 (40 Stat., 1057).*] It shall be the duty of any person, partnership, firm, association, or corporation, made liable to any duty, special tax, or other tax imposed by law, when not otherwise provided for, (1) in case of a special tax, on or be-

fore the thirty-first day of July in each year, and (2) in other cases before the day on which the taxes accrue, to make a list or return, verified by oath, to the collector or a deputy collector of the district where located, of the articles or objects, including the quantity of goods, wares, and merchandise, made or sold and charged with a tax, the several rates and aggregate amount, according to the forms and regulations to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, for which such person, partnership, firm, association, or corporation is liable: *Provided*, That if any person liable to pay any duty or tax, or owning, possessing, or having the care or management of property, goods, wares, and merchandise, article or objects liable to pay any duty, tax, or license, shall fail to make and exhibit a list or return required by law, but shall consent to disclose the particulars of any and all the property, goods, wares, and merchandise, articles, and objects liable to pay any duty or tax, or any business or occupation liable to pay any tax as aforesaid, then, and in that case, it shall be the duty of the collector or deputy collector to make such list or return, which, being distinctly read, consented to, and signed and verified by oath by the person so owning, possessing, or having the care and management as aforesaid, may be received as the list of such person: *Provided further*, That in case no annual list or return has been rendered by such person to the collector or deputy collector as required by law, and the person shall be absent from his or her residence or place of business at the time the collector or a deputy collector shall call for the annual list or return, it shall be the duty of such collector or deputy collector to leave at such place of residence or business, with some one of suitable age and discretion, if such be present, otherwise to deposit in the nearest post office, a note or memorandum addressed to such person, requiring him or her to render to such collector or deputy collector the list or return required by law within ten days from the date of such note or memorandum, verified by oath. And if any person, on being notified or required as aforesaid, shall refuse or neglect to render such list or return within the time required as aforesaid, or whenever any person who is required to deliver a monthly or other return of objects subject to tax fails to do so at the time required, or delivers any return which, in the opinion of the collector, is erroneous, false, or fraudulent, or contains any undervaluation or understatement, or refuses to allow any regularly authorized Government officer to examine the books of such person, firm, or corporation, it shall be lawful for the collector to summon such person, or any other person having possession, custody, or care of books of account containing entries relating to the business of

Annual and other returns, when to be made. See Sec. 3185, p. 117.

When returns must be made by deputy collector or collector.

Proceedings in case of absence.

Cases of neglect or of making false returns.

Summons to
produce books
and testify.

such person or any other person he may deem proper, to appear before him and produce such books at a time and place named in the summons, and to give testimony or answer interrogatories, under oath, respecting any objects or income liable to tax or the returns thereof. The collector may summon any person residing or found within the State or Territory in which his district lies; and when the person intended to be summoned does not reside and can not be found within such State or Territory, he may enter any collection district where such person may be found and there make the examination herein authorized. And to this end he may there exercise all the authority which he might lawfully exercise in the district for which he was commissioned: *Provided*, That "person," as used in this section, shall be construed to include any corporation, joint-stock company or association, or insurance company when such construction is necessary to carry out its provisions.

See section 23, act of October 22, 1914; sections 18, 19, act of September 8, 1916; sections 1002, 1004, act of October 3, 1917.

Returns of taxes assessable under internal-revenue laws to be made in duplicate. (Cir. No. 140, Int. Rev. No. 548; T. D. 21801.)

The returns (Form 11, revised) of special taxpayers must be made under oath or affirmation, whether covering the whole year or a fractional part of the year. (26 Int. Rev. Rec., 69, 89; T. D. 1782.)

A person intending to engage in business for which special tax is required not required to himself sign and swear to the return (Form 11); such form may be executed by an agent holding a duly executed power of attorney. (Regulations No. 1, revised November, 1917, p. 11; T. D. 49 amended.)

Return on Form 11 in the case of an unincorporated club, association, or copartnership may be signed and verified by a responsible or managing officer or member of the firm. (T. D. 1552.)

A written request by a person liable to a special tax for information concerning such tax is not a disclosure of the particulars within the meaning of this section. (VI Comp. Dec., 760.)

Request for prescribed blanks for making return is a disclosure. (VIII Comp. Dec., 663.)

This section clothes collectors of internal revenue with supervisory power over and authorizes them to investigate all accounts, lists, or returns made or required to be made to them by any and all classes of persons liable to pay taxes upon any property, trade, or business. (United States v. Hodson, 14 Int. Rev. Rec., 100; Fed. Cas. No. 15376.)

The collector is not authorized to require the production of the books of a corporation in which the taxpayer is a shareholder, such books in the meaning of that provision not being books relating to the trade or business of the shareholder. (Lee, assessor, v. Chadwick, 11 Int. Rev. Rec., 183; 1 Lowell, 439; Fed. Cas. No. 2570.)

After the right of assessment has been lost a collector has no legal authority to require the production of a person's private books and papers for the purpose of ascertaining his liability to tax. (In the matter of O. H.

P. Archer, 24 Int. Rev. Rec., 110; 9 Ben., 427; Fed. Cas. No. 506.)

It was held that it is no defense that the answers of the person summoned would tend to criminate him. (In re Phillips, 10 Int. Rev. Rec., 107; Fed. Cas. No. 11098.)

The examination of books under this section is not an infringement of the Constitution. (In re Strouse, 11 Int. Rev. Rec., 182; 1 Sawyer, 606; Fed. Cas. No. 13548.)

Summons to produce books and attachment by court for refusal. (Lippman's case, 3 Ben., 95; 9 Int. Rev. Rec., 1; Landram v. United States, 16 Ct. Cls., 74, 85; In re Brown, 3 Int. Rev. Rec., 134; Fed. Cas. No. 1977.)

Order to produce books is not violative of any constitutional right. (Calkins v. Smietanka, 240 Fed., 148.)

Meaning of the words "objects charged with internal-revenue tax." (Wells, Fargo and Co. v. Shook, 8 Blatch., 254; Fed. Cas. No. 17406; In re Kinney, 102 Fed., 468.)

The decision in Boyd v. United States, 116 U. S., 617, 32 Int. Rev. Rec., 62, was, in effect, that a compulsory production of a man's private papers, to be used as evidence against him in a proceeding to forfeit his property for alleged fraud against the revenue laws, is an "unreasonable search and seizure" within the meaning of the fourth amendment of the Constitution.

Summons to produce books. (T. D. 993.)

See act of June 22, 1874, relative to production of books, papers, etc., in suits other than criminal, page 644, Appendix.

Unreasonable searches and seizures; seizure of correspondence. (T. D. 1964.)

SEC. 3174. Such summons shall in all cases be served by a deputy collector of the district where the person to whom it is directed may be found, by an attested copy delivered to such person in hand, or left at his last and usual place of abode, allowing such person one day for each twenty-five miles he may be required to travel, computed from the place of service to the place of examination; and the certificate of service signed by such deputy shall be evidence of the facts it states on the hearing of an application for an attachment. When the summons requires the production of books, it shall be sufficient if such books are described with reasonable certainty.

Summons, form and manner of service of.

In re Becker, Fed. Cas. No. 1208; 21 Int. Rev. Rec., 243.

SEC. 3175. Whenever any person summoned under the two preceding sections neglects or refuses to obey such summons, or to give testimony, or to answer interrogatories as required, the collectors may apply to the judge of the district court or to a commissioner of the circuit court of the United States for the district within which the person so summoned resides for an attachment against him as for a contempt. It shall be the duty of the judge or commissioner to hear the application, and, if satisfactory proof is made, to issue an attachment, directed to some proper officer, for the arrest of such person, and upon his being brought before him to proceed to a hearing of the case; and upon such hearing the judge or commissioner shall have power to make such order as he shall deem proper not inconsistent with

Failure to obey summons, proceedings on.

existing laws for the punishment of contempts, to enforce obedience to the requirements of the summons and to punish such person for his default or disobedience.

Penalty for failure to obey summons. (Sec. 3179, p. 111.)

The judge may issue a rule to show cause why an attachment should not issue. The application of the collector in these cases is a proceeding in a civil cause, and may be amended. (*Lee, assessor, v. Chadwick*, 11 Int. Rev. Rec., 133; Fed. Cas. No. 2570.)

In the matter of *Oliver H. P. Archer*, Judge Blatchford denied a collector's application for a writ of attachment, as the Commissioner was barred by the 15 months' limitation in section 3182 from assessing. (24 Int. Rev. Rec., 110; 9 Ben., 427; Fed. Cas. No. 506.)

SEC. 3176. [*Amended by sec. 34, act of August 27, 1894 (28 Stat., 509), sec. 11 (1), act of October 3, 1913 (38 Stat., 114, 177), sec. 16, act of September 8, 1916 (39 Stat., 756), and sec. 1317, act of February 24, 1919 (40 Stat., 1057).*] If any person, corporation, company, or association fails to make and file a return or list at the time

Proceedings
where no return
is filed.

prescribed by law or by regulation made under authority of law, or makes, willfully or otherwise, a false or fraudulent return or list, the collector or deputy collector shall make the return or list from his own knowledge and from such information as he can obtain through testimony or otherwise. In any such case the Commissioner may, from his own knowledge and from such information as he can obtain through testimony or otherwise, make a return or amend any return made by a collector or deputy collector. Any return or list so made and subscribed by the Commissioner, or by a collector or deputy collector and approved by the Commissioner, shall be prima facie good and sufficient for all legal purposes.

Extension of
time.

If the failure to file a return or list is due to sickness or absence, the collector may allow such further time, not exceeding thirty days, for making and filing the return or list as he deems proper.

25 per cent
penalty.

The Commissioner of Internal Revenue shall determine and assess all taxes, other than stamp taxes, as to which returns or lists are so made under the provisions of this section. In case of any failure to make and file a return or list within the time prescribed by law, or prescribed by the Commissioner of Internal Revenue or the collector in pursuance of law, the Commissioner of Internal Revenue shall add to the tax 25 per centum of its amount, except that when a return is filed after such time and it is shown that the failure to file it was due to a reasonable cause and not to willful neglect, no such addition shall be made to the tax. In case a false or fraudulent return or list is willfully made, the Commissioner of Internal Revenue shall add to the tax 50 per centum of its amount.

50 per cent
penalty.

When penalties
collectible.

The amount so added to any tax shall be collected at the same time and in the same manner and as part of

the tax unless the tax has been paid before the discovery of the neglect, falsity, or fraud, in which case the amount so added shall be collected in the same manner as the tax.

Affidavits to tax return. (T. D. 2174.)

The 100 per cent penalty applies to the full amount of tax involved. (T. D. 2266.)

The 50 per cent penalty does not accrue if return is placed in the mails in time, properly addressed and postage paid. (T. D. 424.)

The 50 per cent additional is a penalty. (17 Op. Atty. Gen., 433; 23 Id., 399; T. D. 19246.) A penal duty. (11 Op. Atty. Gen., 280.)

No penalty accrues where parties consent to disclose their liability to special tax within the calendar month. (T. D. 239; revoked by T. D. 2260; 6 Comp. Dec., 686.)

The absence contemplated by section 3176 as relieving a special-tax payer from the 50 per cent additional is temporary, not continuous, absence. (T. D. 891.)

Assessable penalties for failing to make return or for making a wilfully false return. See regulations No. 1, revised.

Interpretation of the words "false or fraudulent intent." (Ellot National Bank v. Gill, 213 Fed., 800; T. D. 2121.)

False returns. (National Bank of Commerce v. Allen, 223 Fed., 472; T. D. 2198; 211 Fed., 743; T. D. 1891.)

False return in the absence of any intention to mislead not a fraudulent one. (Ellot National Bank v. Gill, 210 Fed., 933; T. D. 1936.)

The word "false," when used in the statute, means untrue or incorrect, and does not necessarily mean intentionally or fraudulently false. (United States v. Nashville, Chattanooga and St. Louis Ry.; 249 Fed., 678; T. D. 2697.)

As to the term "false," meaning wilfully false (German Savings Bank v. Archbold, 15 Blatch., 398, 24 Int. Rev. Rec., 414); Supreme Court Decision (28 Int. Rev. Rec., 175; 104 U. S. (14 Otto), 708). The court did not hold that the return must be wilfully false, but intimated that such would have been its decision if it had been necessary to pass upon the question in the case decided.

As to 100 per cent penal duty. (11 Op. Atty. Gen., 280.)

In case of neglect or refusal to make returns, in case of false or fraudulent ones, and in case of returns in which there is any omission or understatement, collectors will proceed as provided in section 3176. (34 Int. Rev. Rec., 93.)

The act which imposes an addition of 100 per cent to the tax as a penalty for the "return of a false or fraudulent list or valuation" is constitutional. (Doll v. Evans, 15 Int. Rev. Rec., 143.)

As to authority of Secretary to remit the 50 per cent addition. (17 Op. Atty. Gen., 433; 23 Id., 398.)

Reporting delinquent special-tax payers for assessment. (See note under sec. 3238, p. 156.)

Course to be pursued by collectors where no return is filed. (T. D. 1560.)

Section does not take away from Commissioner powers given by statute to assess tax on sales of grain, on memoranda of which stamps were not affixed. (Calkins v. Smietanka, 240 Fed. 188.)

Penalty for failure to make return of income tax. Sec. 18, act of September 8, 1916, amended by sec. 1209, act of October 3, 1917.

Penalty for failure to make return required by the act of October 3, 1917, or regulations thereunder. Sec. 1004, act of October 3, 1917.

Jurisdiction of
district courts.

SEC. 1318. [*Act of February 24, 1919 (40 Stat., 1057).*] That if any person is summoned under this Act to appear to testify, or to produce books, papers or other data, the district court of the United States for the district in which such person resides shall have jurisdiction by appropriate process to compel such attendance, testimony, or production of books, papers, or other data.

Where delinquency in filing admissions tax return was due to fact that head bookkeeper on reports, etc., had enlisted in United States Navy and it was impossible for taxpayer to make return on time with substitute help, there was a reasonable cause for delinquency within the meaning of this section. (T. D. 2795.)

Officers may
enter premises
where taxable ar-
ticles are kept.

SEC. 3177. Any collector, deputy collector, or inspector may enter, in the daytime, any building or place where any articles or objects subject to tax are made, produced, or kept, within his district, so far as it may be necessary for the purpose of examining said articles or objects. And any owner of such building or place, or person having the agency or superintendence of the same, who refuses to admit such officer, or to suffer him to examine such article or articles, shall, for every such refusal, forfeit five hundred dollars. And when such premises are open at night, such officers may enter them while so open, in the performance of their official duties. And if any person shall forcibly obstruct or hinder any collector, deputy collector, or inspector, in the execution of any power and authority vested in him by law, or shall forcibly rescue or cause to be rescued any property, articles, or objects after the same shall have been seized by him, or shall attempt or endeavor so to do, the person so offending, excepting in cases otherwise provided for, shall, for every such offense, forfeit and pay the sum of five hundred dollars, or double the value of the property so rescued, or be imprisoned for a term not exceeding two years, at the discretion of the court.

Obstructing of-
ficers. Rescuing
property. Pen-
alty.

This section is made applicable to revenue agents by section 3152 as amended (p. 81).

Seized property irrepleviable. (Sec. 934, p. 656.)

Whosoever shall forcibly assault, resist, or interfere with any officer of internal revenue, or his deputy, or any person assisting him in his duties, or shall rescue, or attempt to rescue, or cause to be rescued, property seized, is liable to a fine of not more than \$2,000, or imprisonment, or both. (Sec. 65, Criminal Code, Appendix, p. 674.)

Distiller or person in his employ obstructing officer. (Sec. 3276, p. 225.) Wholesale liquor dealer or rectifier hindering revenue officer from examining book. (Sec. 3318, p. 272.)

Search warrants. (Sec. 3462, p. 601.)

The right conferred by section 3177 is limited to the purpose described. (United States v. Mann, 95 U. S. (5 Otto), 590; 24 Int. Rev. Rec., 20.)

Officers must have free and peaceable egress as well as ingress to the places where they are authorized to make examination, and the proprietors have no right to eject them. (United States v. Mosely, 15 Int. Rev. Rec., 8; Fed. Cas. No. 15823.)

The authority of such officers to make examinations can not be delegated to their clerks. (*United States v. Rhawn*, 22 Int. Rev. Rec., 235; Fed. Cas. No. 16150.)

Indictments under this section. (*United States v. Ford*, 34 Fed., 26.)

United States v. Fears (3 Woods, 510; Fed. Cas. No. 15080). (Indictment defective in not showing the authority under which the officer was acting.)

Section 3177 applies to cases arising under the oleomargarine act. (*United States v. Barnes*, 222 U. S., 513; T. D. 1751.)

Action against a collector and deputies for damages on account of an alleged unlawful search. (*Kercheval v. Allen*, 220 Fed., 262.)

Evidence discovered, although "illegally" obtained, may be competent. (*Hartman and Hartman v. United States*, T. D. 1468.)

SEC. 3178. [*Requires returns to show whether amounts are valued in coin or currency.*]

Although the provision is not expressly repealed, it has been obsolete since the resumption of specie payments, January 1, 1879.

SEC. 3179. Whenever any person delivers or discloses to the collector or deputy any false or fraudulent list, return, account, or statement, with intent to defeat or evade the valuation, enumeration, or assessment intended to be made, or, being duly summoned to appear to testify, or to appear and produce such books as aforesaid, neglects to appear or to produce said books, he shall be fined not exceeding one thousand dollars, or be imprisoned not exceeding one year, or both, at the discretion of the court, with costs of prosecution.

Making false return or neglecting to obey summons; penalty.

United States v. McGinnis and Mountjoy, 1 Abb. U. S., 120; 3 Int. Rev. Rec., 159.

SEC. 3180. Whenever there are in any district any articles not owned or possessed by or under the care or control of any person within such district, and liable to be taxed, and of which no list has been transmitted to the collector, as required by law, the collector or one of his deputies shall enter the premises where such articles are situated and shall take such view thereof as may be necessary, and make lists of the same, according to the form prescribed. Said lists, being subscribed by such collector or deputy, shall be taken as sufficient lists of such articles for all purposes.

Taxable property owned by nonresidents.

SEC. 3181. The lists or returns aforesaid shall, where not otherwise especially provided for, be taken with reference to the day fixed for that purpose by this Title as aforesaid; and where duties accrue at other and different times, the list shall be taken with reference to the time when said taxes become due, and shall be denominated annual, monthly, and special lists or returns.

Lists, when taken and how denominated.

Act Feb. 18, 1875.

There is now no annual list. There has been no list denominated annual since the act abolishing assessors and requiring special taxes to be paid by stamps. (Act December 24, 1872, 17 Stat., 401.)

Instructions regarding preparation of assessment lists of various objects subject to tax. (Mimeograph letter 1728, January 15, 1918.)

Commissioner to make assessments. Correction of incomplete or imperfect lists within fifteen months.

SEC. 3182. The Commissioner of Internal Revenue is hereby authorized and required to make the inquiries, determinations, and assessments of all taxes and penalties imposed by this Title, or accruing under any former internal-revenue act, where such taxes had not been duly paid by stamp at the time and in the manner provided by law, and shall certify a list of such assessments when made to the proper collectors respectively, who shall proceed to collect and account for the taxes and penalties so certified. Whenever it is ascertained that any list which has been or shall be delivered to any collector, is imperfect or incomplete in consequence of the omission of the name of any person liable to tax, or in consequence of any omission, or understatement, or undervaluation, or false or fraudulent statement contained in any return made by any person liable to tax, the Commissioner of Internal Revenue may, at any time within fifteen months from the time of the delivery of the list to the collector as aforesaid, enter on any monthly or special list the name of such person so omitted, together with the amount of tax for which he may have been or shall become liable, and also the name of any such person in respect to whose return, as aforesaid, there has been or shall be any omission, undervaluation, understatement, or false or fraudulent statement, together with the amount for which such person may be liable, above the amount for which he may have been or shall be assessed upon any return made as aforesaid; and he shall certify and return such list to the collector as required by law. And all provisions of law for the ascertainment of liability to any tax, or the assessment or collection thereof, shall be held to apply, so far as may be necessary, to the proceedings herein authorized and directed.

Assessors abolished. (Act December 24, 1872, 17 Stat., 401.)

April list, 1873, was the last list made by assessors. (Special No. 128.)

The authority to make assessments of taxes due is limited to the 15 months next succeeding the delivery to the collector of the list upon which the assessment might have been made, but from which it was omitted, except in cases where it is otherwise provided. (Regulations No. 1, revised, p. 152.)

Assessment can not be made of part of a special-tax liability. When the list on which a special tax should have first been assessed (but from which the same was omitted) has been delivered to a collector for a period of more than 15 months, the special tax incurred becomes unassessable. (T. D. 1364.)

Reassessment within 15 months. (*Dandele v. Smith*, 18 Wall., 642; *Barker v. White*, 19 Int. Rev. Rec., 117; 11 Blatch., 445; Fed. Cas., No. 996; *Daniels v. Tarbox*, 9 Blatch., 176; Fed. Cas., No. 3568; *Bergdoll v. Pollock*, 95

U. S., 337; *United States v. O'Neill*, 30 Int. Rev. Rec., 127; 19 Fed., 567.)

Assessment where waiver of limitation is filed voluntarily—voluntary filing of return after expiration regarded as waiver. (Regulations No. 1, p. 154.)

Commissioner to make assessments of taxes and penalties (sec. 3176, p. 108); of taxes on property sold under distraint (sec. 3191, p. 121); on spirits removed without deposit in warehouse (sec. 3253, p. 207); on spirits in case of excessive loss (sec. 3293 as amended, p. 239); on distillers for deficiency, etc. (sec. 3309, p. 263); for export stamps issued (sec. 3314, p. 269); on tobacco, snuff, and cigars removed without being stamped (sec. 3371, p. 384); of stamp taxes within two years (sec. 3437, p. 553); also, see Regulations No. 1, revised.

Penalty of double the tax under section 3256, R. S., not assessable. (T. D. 858.)

As to when an assessment is conclusive. (*United States v. Black*, 11 Blatch., 538; 19 Int. Rev. Rec., 116. *United States v. Hodson et al.*, 14 Int. Rev. Rec., 100.)

Legal effect of assessments as evidence. Letter of Commissioner Raum reviewing the decisions on the subject. (23 Int. Rev. Rec., 5.)

The assessment is *prima facie* evidence of the amount due. (*United States v. Rindskopf*, 105 U. S., 418; 28 Int. Rev. Rec., 141. *Clinkenbeard v. United States*, 21 Wall., 65; 21 Int. Rev. Rec., 37. *United States v. Cole*, 134 Fed., 697; T. D. 786. *United States v. Black*, 11 Blatch., 538; Fed. Cas. No. 14600; 19 Int. Rev. Rec., 116. *United States v. Hodson*, 14 Int. Rev. Rec., 100; Fed. Cas. No. 15376. *Schmitt v. Trowbridge*, 24 Int. Rev. Rec., 381; Fed. Cas. No. 12468. *United States v. Butler*, 18 Int. Rev. Rec., 164; Fed. Cas. No. 14702. Charge to the jury in *Brown v. Harkins*, T. D. 662. *Western Express Co. v. United States*, 141 Fed., 28; T. D. 965.)

The assessment is *prima facie* evidence against the surety as well as the principal. (*United States Fidelity & Guaranty Co. v. United States*, 201 Fed., 91; T. D. 1824.)

Obligation to pay tax does not depend upon an assessment. (*Dollar Savings Bank v. United States*, 19 Wall., 227; 19 Int. Rev. Rec., 89; 22 Id., 310. *King v. United States*, 99 U. S., 229. *United States v. Tilden*, 9 Ben., 868; 24 Int. Rev. Rec., 99. *United States v. Little Miami Railroad*, 26 Id., 101; 1 Fed., 700.)

A suit for taxes will lie without an assessment. (*United States v. Grand Rapids & Indiana Ry. Co.*, 239 Fed., 153; T. D. 2166. *United States v. Minneapolis Threshing Machine Co.*, 225 Fed., 1019; T. D. 2285.)

Power to assess stamp taxes. (*Calkins v. Smietanka*, 240 Fed., 138.)

An assessment no bar to a suit for an amount due over and above the amount assessed and paid. (*United States v. Hazard*, 22 Int. Rev. Rec., 309; *United States v. Tilden*, 24 Id., 99.)

The papers upon which an assessment is made are privileged, and courts have no authority to require their production. (16 Op. Atty. Gen., 24; 24 Int. Rev. Rec., 178.) See notes under section 882 Appendix, page 644.

The assessment, though made after the owner of the distillery, who had consented in writing that the premises should be used as a distillery and that the taxes and penalty should be a first lien on the premises (see sec. 3262, p. 215), had sold it to another party, was held to be valid and could not be attacked collaterally, and the sale under distraint was valid. (*United States circuit court, north-*

ern district Illinois, Freysinger case; Milan Distilling Co. v. Tillson, 26 Int. Rev. Rec., 5; Fed. Cas. No. 9539.)

If the assessment is illegal, all proceedings under it are void and may be attacked collaterally. (Runkle v. Citizens' Insurance Co., United States circuit court, southern district of Ohio; 28 Int. Rev. Rec., 74; 6 Fed., 143.)

Receipts of the collector on Form 234 for the alphabetical list showing taxes due are competent evidence. (United States v. Hunt, 105 U. S. (15 Otto), 183; 28 Int. Rev. Rec., 134.)

Allegations in a bill that an assessment is irregular and void do not constitute any ground for an injunction to restrain collection of the assessment. (Alkan and Swenger v. Bean, Collector. 23 Int. Rev. Rec., 351; Fed. Cas. No. 202.) See notes under section 3224, page 144.

Resort may be had to the instructions of the Internal Revenue Office in regard to the preparation of assessment lists to show the meaning of the abbreviations in those lists. (Snyder v. Marks, 109 U. S., 189; 29 Int. Rev. Rec., 403.)

Assessments based on estimates are legal. (United States v. United States Fidelity & Guaranty Co., 144 Fed., 886; T. D. 975.)

The authority confided to the assessor in making assessments is in its nature judicial, and not ministerial. (United States v. Hodson, Fed. Cas., 15376; 14 Int. Rev. Rec., 100.)

An assessor acts judicially in determining what persons and things are subject to taxation. (Delaware R. Co. v. Prettyman, Fed. Cas. No. 3767.)

In making an assessment officers act in a quasi-judicial capacity. The presumption is that they proceed regularly. (Western Express Co. v. United States, 1905 (C. C. A.), 141 Fed., 28; T. D. 985; Clinkenbeard v. United States, 21 Wall., 65.)

When the mode of assessing a tax is not provided for the Commissioner may establish same. (Sec. 3447, R. S.) (Herold v. Kahn, 159 Fed., 608.)

Assessments on account of spirits unaccounted for, liability on each bond to be segregated. (T. D. 1541.)

Taxpayers to be notified in case of doubtful liability. (T. D. 1275.)

Character of evidence to be submitted by revenue agents when reporting persons for assessment. (T. D. 1407.)

Revenue agents when they recommend assessments should state sufficient facts to sustain the charge. (T. D. 250.)

The fact that, for the time being, a tax is not collectible because the party liable has removed to foreign territory, or is insolvent, is not sufficient in itself to warrant omission of the assessment. (T. D. 1553.)

Circular letter (No. 4), March 27, 1874, course to be taken to recover taxes due, but unassessable (without waiver).

Internal-revenue circular, No. 567, instructs collectors as to course to be taken to recover taxes due, but unassessable (without waiver) because of the 15 months' limitation. (T. D. 111.)

Obligation to pay a tax is a debt. (United States v. Chamberlin, 219 U. S., 250; T. D. 1674.)

Commissioner has power to make second assessment after expiration of two years from filing return by plaintiff. (Camp Bird, Ltd., v. Howbert, 249 Fed., 27; T. Ds. 2366, 2661.)

No assessment by Commissioner is necessary for collection of Federal taxes, at least in a direct action by United States. (N. Y. Life Ins. Co. v. Anderson, 257 Fed. 576.)

In an action against a collector to recover taxes erroneously assessed and paid, errors in the assessment in plaintiff's favor may also be corrected; the United States, which

is the real defendant, not being affected by any estoppel which might affect the officer making the assessment. (New York Life Ins. Co. v. Anderson, 257 Fed. 576.)

SEC. 3183. [*Amended by sec. 3, act of March 1, 1879 (20 Stat., 327).*] It shall be the duty of the collectors, or their deputies, in their respective districts, and they are authorized, to collect all the taxes imposed by law, however the same may be designated. And every collector and deputy collector shall give receipts for all sums collected by him, excepting only when the same are in payment for stamps sold and delivered; but no collector or deputy collector shall issue a receipt in lieu of a stamp representing a tax.

Duty of collectors to collect taxes.

Not to issue receipts in lieu of stamps.

Circular 595, March 11, 1901 (T. D. 297), relative to the unlawful issue of receipts for money in payment of special taxes.

Collectors are advised that it is their duty to use the same diligence to collect a tax after it has been abated as uncollectible, or as in suit, as before abatement. (T. D. 60.)

It is their duty to collect taxes and to see that the laws are complied with; to seize property liable to seizure and to prosecute for recovery of sums forfeited by law. (*Averill v. Smith*, 17 Wall. 82.)

The collector is a ministerial officer who must obey the mandate in his hands for the collection of the tax. (*First National Bank v. Waters*, 19 Blatch., 242.)

Protection afforded a collector in collecting an assessment. (T. D. 987; *Erskine v. Hohnbach*, 14 Wall., 613; 17 Int. Rev. Rec., 19. *Haffin v. Mason*, 15 Wall., 671; 17 Int. Rev. Rec., 118. *Harding v. Woodcock*, 137 U. S., 43.)

Where an assessment is made, it is the collector's duty ordinarily to proceed with the collection of the tax without questioning the legality of the same. (T. D. 621; Jan. 20, 1903.)

The collector has no authority to question the validity of assessments. The assessment lists constitute his warrant to collect. (*Haffin v. Mason*, 15 Wall., 675; 17 Int. Rev. Rec., 118.)

Deputy collectors to give personal receipts for collections made by them. (T. D. 2341.)

Duplicate or additional receipts. (T. D. 2226.)

Receipts issued by deputies. (T. D. 2247.)

SEC. 37. [*Act of August 27, 1894 (28 Stat., 509).*]

That it shall be the duty of every collector of internal revenue, to whom any payment of any taxes other than the tax represented by an adhesive stamp or other engraved stamp is made under the provisions of this Act, to give to the person making such payment a full written or printed receipt, expressing the amount paid and the particular account for which such payment was made; and whenever such payment is made such collector shall, if required, give a separate receipt for each tax paid by any debtor, on account of payments made to or to be made by him to separate creditors in such form that such debtor can conveniently produce the same separately to his several creditors in satisfaction of their respective demands to the amounts specified in such receipts; and such receipts shall be sufficient evidence in

Receipts to be given upon payment of tax.

Separate receipts to be given in certain cases.

favor of such debtor, to justify him in withholding the amount therein expressed from his next payment to his creditor; but such creditor may, upon giving to his debtor a full written receipt, acknowledging the payment to him of whatever sum may be actually paid, and accepting the amount of tax paid as aforesaid (specifying the same) as a further satisfaction of the debt to that amount, require the surrender to him of such collector's receipt.

Collector issuing stamps before payment. (Sec. 1, act March 1, 1879, p. 100.)

Collections to be paid into Treasury daily. (Sec. 3210, p. 129.)

Case of Pinkney Rollins, collector, taking sight drafts. (23 Int. Rev. Rec., 6.)

As to rendering accounts. (Sec. 3212, p. 132, and sec. 3622, p. 663.)

Receipt for adhesive stamps. (T. D. 2089.)

Notice and demand of taxes.

SEC. 3184. Where it is not otherwise provided, the collector shall in person or by deputy, within ten days after receiving any list of taxes from the Commissioner of Internal Revenue, give notice to each person liable to pay any taxes stated therein, to be left at his dwelling or usual place of business, or to be sent by mail, stating the amount of such taxes and demanding payment thereof. If such person does not pay the taxes within ten days after the service or the sending by mail of such notice, it shall be the duty of the collector or his deputy to collect the said taxes with a penalty of five per centum additional upon the amount of taxes, and interest at the rate of one per centum a month.

Five per cent penalty and interest.

Interest for full time will be collected on an assessment the abatement for which has been applied for and rejected; that is, time consumed in considering the claim must be included. But in the case of the 5 per cent penalty such time may be thrown out, provided 10 days do not elapse before claim is made or before payment after rejection. (Regulations No. 1, revised, p. 110; T. D. 1414.)

Sections 3184 and 3185 strictly construed. (United States v. Allen, 14 Fed., 263.)

Notice necessary before taxpayer can be charged with penalty and interest. (United States v. Bristow, 20 Fed., 378.) Notice is also necessary to secure lien. (T. D. 1995.)

Directions to enforce 5 per cent penalty and interest. (Aug. 15, 1871; 14 Int. Rev. Rec., 58.)

Where 50 per cent penalty has been added to the special tax under Sec. 3176, R. S., the 5 per cent penalty and interest must be reckoned on the entire assessment including both the tax and 50 per cent penalty. (T. D. 870, Feb. 27, 1905.)

Five per cent penalty and interest on delayed payments of assessed taxes.—Assessed taxes held to be due and payable 10 days after actual mailing of Notice and Demand, Form 17. (T. D. 1659.)

Notice by mail—presumption of delivery. (United States v. General Inspection & Loading Co., 204 Fed., 657; T. D. 1773.)

Deposit of letter in post office evidence tending to show receipt. (United States v. Babcock, 3 Dill., 571; Fed. Cas. No. 14485.)

SEC. 3185. All returns required to be made monthly by any person liable to tax shall be made on or before the tenth day of each month, and the tax assessed or due thereon shall be returned by the Commissioner of Internal Revenue to the collector on or before the last day of each month. All returns for which no provision is otherwise made shall be made on or before the tenth day of the month succeeding the time when the tax is due and liable to be assessed, and the tax thereon shall be returned as herein provided for monthly returns, and shall be due and payable on or before the last day of the month in which the assessment is so made. When the said tax is not paid on or before the last day of the month, as aforesaid, the collector shall add a penalty of five per centum, together with interest at the rate of one per centum per month, upon such tax from the time the same became due; but no interest for a fraction of a month shall be demanded: *Provided*, That notice of the time when such tax becomes due and payable is given in such manner as may be prescribed by the Commissioner of Internal Revenue. It shall then be the duty of the collector, in case of the non-payment of said tax on or before the last day of the month, as aforesaid, to demand payment thereof, with five per centum added thereto, and interest at the rate of one per centum per month, as aforesaid, in the manner prescribed by law; and if said tax, penalty, and interest, are not paid within ten days after such demand, it shall be lawful for the collector or his deputy to make distraint therefor, as provided by law.

Returns, when to be made, and when tax payable.

Five per cent penalty and interest at the rate of 1 per cent per month.

See Sec. 3173, amended, p. 104.

No interest for a fractional part of a month shall be demanded, and in computing interest it is reckoned on the tax only. The 5 per cent penalty must not be added to the tax for the purpose of computing interest. The penalty and interest must be collected in all cases when a taxpayer has become liable thereto, as the collector has no discretion in the matter. Regulations No. 1, revised.

Instructions to collectors in regard to notices to taxpayers; Circular No. 311. (33 Int. Rev. Rec., 109; Regulations No. 2, revised, p. 49.)

No power to remit penalty and interest if legally incurred. (9 Int. Rev. Rec., 188; 14 Id., 58.)

If spirits are exported without payment of tax after it has been assessed, the distiller is not relieved from the 5 per cent penalty. (Clay & Co. v. Swope, 38 Fed., 396; 35 Int. Rev. Rec., 136.)

Notice and demand for assessed taxes to be issued promptly to secure tax lien, penalty, and interest in case of nonpayment. (T. D. 1995.)

Collection of 5 per cent penalty for failure to pay income tax. (T. D. 2003.)

The 50 per cent and 100 per cent added to the tax are subject to the 5 per cent penalty and 1 per cent per month interest, the same as assessed taxes. Regulations No. 2, revised, p. 50.

Interest at the rate of 1 per cent per month is recoverable as interest and not as penalty. (United States v. Guest, 143 Fed., 456; T. D. 979.)

Relative to 5 per cent penalty and interest at 1 per cent per month when claims for abatement have been filed and rejected, see first note under section 3184.

Lien for taxes.

SEC. 3186. [*Amended by sec. 3, act of March 1, 1879 (20 Stat., 327) and act of March 4, 1913 (37 Stat., 1016).*] If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount shall be a lien in favor of the United States from the time when the assessment-list was received by the collector, except when otherwise provided, until paid, with the interest, penalties, and costs that may accrue in addition thereto, upon all property and rights to property belonging to such person: *Provided, however, That such lien shall not be valid as against any mortgagee, purchaser, or judgment creditor until notice of such lien shall be filed by the collector in the office of the clerk of the district court of the district within which the property subject to such lien is situated: Provided further, Whenever any State by appropriate legislation authorizes the filing of such notice in the office of the registrar or recorder of deeds of the counties of that State, or in the State of Louisiana in the parishes thereof, then such lien shall not be valid in that State as against any mortgagee, purchaser, or judgment creditor, until such notice shall be filed in the office of the registrar or recorder of deeds of the county or counties, or parish or parishes in the State of Louisiana, within which the property subject to the lien is situated.*

Act of Mar.
4, 1913. (T. D.
1841.)

Because of the special provision for a lien for the tax upon spirits (sec. 3251, p. 192) there is rarely occasion for calling in the provisions of section 3186 in the case of taxes on spirits.

Lien in case of deficiency when spirits are withdrawn for exportation. (See 16 Op. Atty. Gen., 684; 25 Int. Rev. Rec., 342.)

In order to support and enforce a statutory lien for taxes, all the prerequisites of the law granting the lien must be strictly complied with. (*United States v. Allen*, 14 Fed., 263.)

A lien for taxes does not stand upon the footing of an ordinary incumbrance, and is not displaced by a sale under a preexisting judgment or decree, unless otherwise directed by statute. It attaches to the res without regard to individual ownership, and when it is enforced by sale pursuant to the statute prescribing the mode of assessing and collecting them, the purchaser takes a valid and unimpeachable title. (*Osterberg v. Union Trust Co.*, 93 U. S. (3 Otto), 424; 23 Int. Rev. Rec., 146.)

The Pacific Railroad Co. appeared not to have paid all taxes due on dividends. It was succeeded by the Atlantic and Pacific Railroad. Demand was made by the collector of the first district of Missouri on the Atlantic and Pacific Railroad. Held that the demand did not create a lien in favor of the United States. Demand must be for specific amount. All the steps required by law must be pursued strictly. (23 Int. Rev. Rec., 384.)

A lien for taxes created by the act takes effect only upon property belonging to the delinquent at the time the demand for the payment of the tax is made. The lien

requires an assessment, a notice that the tax is due, and a specific demand upon the individual taxpayer. There is a distinction between the liability of a taxpayer under the common law and the creation and enforcement of a lien. (Decision of Circuit Judge McCrary, *United States v. Pacific Railroad et al.*, 28 Int. Rev. Rec., 100; 1 McCrary, 1; 1 Fed., 97; *Brown v. Goodwin*, 75 N. Y., 409; T. D. 1995.)

See on this section *United States v. Snyder*, 149 U. S., 210; 39 Int. Rev. Rec., 189.

The Government's lien is unaffected by the fact that a subsequent incumbrancer or purchaser became such without knowledge of Government lien. (*United States v. Curry*, 201 Fed., 371.)

Sec. 3187. If any person liable to pay any taxes neglects or refuses to pay the same within ten days after notice and demand, it shall be lawful for the collector or his deputy to collect the said taxes, with five per centum additional thereto, and interest as aforesaid, by distraint and sale, in the manner hereafter provided, of the goods, chattels, or effects, including stocks, securities, and evidences of debt, of the person delinquent as aforesaid: *Provided*, That there shall be exempt from distraint and sale, if belonging to the head of a family, the school-books and wearing apparel necessary for such family; also arms for personal use, one cow, two hogs, five sheep and the wool thereof, provided the aggregate market-value of said sheep shall not exceed fifty dollars; the necessary food for such cow, hogs, and sheep, for a period not exceeding thirty days; fuel to an amount not greater in value than twenty-five dollars; provisions to an amount not greater than fifty dollars; household furniture kept for use to an amount not greater than three hundred dollars; and the books, tools, or implements, of a trade or profession, to an amount not greater than one hundred dollars shall also be exempt; and the officer making the distraint shall summon three disinterested householders of the vicinity, who shall appraise and set apart to the owner the amount of property herein declared to be exempt.

Taxes collectible by distraint.

Property exempt from distraint.

"Goods and chattels" have no invariable fixed meaning in legal construction. The term "goods" includes money. (22 Op. Att. Gen., 178.)

Collectors in accepting sureties on bonds will be careful to see that no portion of the property described in the surety's affidavit is exempt from distraint under this section or under the laws of the State in which the surety resides.

State exemption laws inapplicable to debts due the United States. (*United States v. Howell*, 9 Fed., 674.)

A sale of property under a distraint warrant is clearly distinguishable from a sale of property seized and condemned in forfeiture proceedings. A sale under a distraint warrant does not cut off the title of a third person who does not owe the tax. (*Sheridan v. Allen et al.*, 153 Fed., 568.)

The issuance of "Omnibus" warrants of distraint is prohibited. Distraint warrants should be separate, and prompt returns should be made by deputies in every case, in pursuance of directions from collectors. (T. D. 135, May 28, 1900.)

Only persons who are the heads of families are entitled to exemptions.—Merchants not entitled to exemption as persons engaged in a trade or profession. (T. D. 1499.)

Taxes can be collected by distraint and by suit on the bond at the same time. (Harding v. Woodcock, 137 U. S., 43; United States v. Barrowcliff, 3 Ben., 519; Fed. Cas. No. 14528.)

Procedure when property is in hands of receiver. (T. D. 667.)

The United States is compelled to resort to a sale of chattels and personal property of delinquent before instituting proceedings to enforce lien on real estate. (United States v. Curry, 201 Fed., 371.)

Injunction against collector in distraint proceedings. Courts will not interfere with executive officers. (Brown v. N. Glen Williams, 194 Fed., 855; T. D. 1760; Gouge v. Hart, 250 Fed., 802.)

Mode of levying distraint.

SEC. 3188. In such case of neglect or refusal, the collector may levy, or by warrant may authorize a deputy collector to levy, upon all property and rights to property, except such as are exempt by the preceding section, belonging to such person, or on which the said lien exists, for the payment of the sum due as aforesaid, with interest and penalty for non-payment, and also of such further sum as shall be sufficient for the fees, costs, and expenses of such levy.

Delinquents must exhibit evidence relating to property distrained.

SEC. 3189. All persons, and officers of companies or corporations, are required, on demand of a collector or deputy collector about to distraint or having distrained on any property, or rights of property, to exhibit all books containing evidence or statements relating to the subject of distraint, or the property or rights of property liable to distraint for the tax due as aforesaid.

Proceedings on distraint.

SEC. 3190. When distraint is made, as aforesaid, the officer charged with the collection shall make or cause to be made an account of the goods or effects distrained, a copy of which, signed by the officer making such distraint, shall be left with the owner or possessor of such goods or effects, or at his dwelling or usual place of business, with some person of suitable age and discretion, if any such can be found, with a note of the sum demanded, and the time and place of sale; and the said officer shall forthwith cause a notification to be published in some newspaper within the county wherein said distraint is made, if a newspaper is published in said county, or to be publicly posted at the post-office, if there be one within five miles, nearest to the residence of the person whose property shall be distrained, and in not less than two other public places. Such notice shall specify the articles distrained, and the time and place for the sale thereof. Such time shall not be less than ten nor more than twenty days from the date of such notification to the owner or possessor of the property and the publication or posting of such notice as herein provided, and the place proposed for the sale shall not be more than five miles distant from the place of making such distraint. Said sale may be adjourned from time

to time by said officer, if he deems it advisable, but not for a time to exceed in all thirty days.

Collectors enjoined against unnecessary delays in making sales, providing against postponement beyond the statutory period, and as to making reports promptly. (T. D. 623.)

SEC. 3191. When property subject to tax, but upon which the tax has not been paid, is seized upon distraint and sold, the amount of such tax shall, after deducting the expenses of such sale, be first appropriated out of the proceeds thereof to the payment of the tax. And if no assessment of such tax has been made upon such property, the collector shall make a return thereof in the form required by law, and the Commissioner of Internal Revenue shall assess the tax thereon.

When property sold under distraint is subject to tax, and tax not paid.

As taxes are now paid by stamps, assessments under the last clause are rarely necessary. (See sec. 3458, p. 597.)

SEC. 3192. When any property advertised for sale under distraint, as aforesaid, is of a kind subject to tax, and the tax has not been paid, and the amount bid for such property is not equal to the amount of the tax, the collector may purchase the same in behalf of the United States for an amount not exceeding the said tax. All property so purchased may be sold by the collector, under such regulations as may be prescribed by the Commissioner of Internal Revenue. The collector shall render to the Commissioner a distinct account of all charges incurred in such sales, and, in case of sale, shall pay into the Treasury the surplus, if any there be, after defraying all lawful charges and fees.

When property sold under distraint may be purchased for United States, etc.

Real estate bid in for United States. (T. D. 1654.)

SEC. 3193. In any case of distraint for the payment of the taxes aforesaid, the goods, chattels, or effects so distrained shall be restored to the owner or possessor, if, prior to the sale, payment of the amount due is made to the proper officer charged with the collection, together with the fees and other charges; but in case of nonpayment as aforesaid, the said officer shall proceed to sell the said goods, chattels, or effects at public auction, (and shall retain from the proceeds of such sale the amount demandable for the use of the United States, and a commission of five per centum thereon for his own use, with the fees and charges for distraint and sale, rendering the overplus, if any there be, to the person who may be entitled to receive the same).

Property distrained to be restored on payment before sale.

The clause in parenthesis is obsolete in view of subsequent legislation.

Section 3193 was amended by the act of May 27, 1908, to the extent that overplus can not be returned to legal owner by a collector, but must be deposited as internal-revenue collections. (Int. Rev. Cir. No. 725; T. D. 1373.)

Allowances for salary and office expenses of collectors are in lieu of salary and commissions formerly provided by law, except a commission of one-half of one per centum on

sales of tax-paid spirit stamps is allowed where the office is less than maximum. (See secs. 3148, p. 76, and 3314, p. 269.)

Effect of certificate of sale.

SEC. 3194. In all cases of sale, as aforesaid, the certificate of such sale shall be prima-facie evidence of the right of the officer to make such sale, and conclusive evidence of the regularity of his proceedings in making the sale, and shall transfer to the purchaser all right, title, and interest of such delinquent in and to the property sold: and where such property consists of stocks, said certificate shall be notice, when received, to any corporation, company, or association of said transfer, and shall be authority to such corporation, company, or association to record the same on their books and records in the same manner as if transferred or assigned by the party holding the same, in lieu of any original or prior certificates, which shall be void, whether canceled or not. And said certificates, where the subject of sale is securities or other evidences of debt, shall be good and valid receipts to the person holding the same, as against any person holding, or claiming to hold, possession of such securities or other evidences of debt.

When property distrained is not divisible.

SEC. 3195. When any property liable to distraint for taxes is not divisible, so as to enable the collector by a sale of part thereof to raise the whole amount of the tax, with all costs, charges, and commissions, the whole of such property shall be sold, and the surplus of the proceeds of the sale, after satisfying the tax, costs, and charges, shall be paid to the person legally entitled to receive the same; or, if he can not be found, or refuses to receive the same, shall be deposited in the Treasury of the United States, to be there held for his use until he makes application therefor to the Secretary of the Treasury, who, upon such application and satisfactory proofs in support thereof, shall, by warrant on the Treasury, cause the same to be paid to the applicant.

The act of May 27, 1908 (35 Stat., 325), in effect amends this section by providing that the gross amount of proceeds shall be deposited in the Treasury.

Surplus proceeds of sales can not in any case be returned to legal owner by a collector, but must be deposited as internal-revenue collections. Claims for surplus proceeds in cases where persons entitled to receive same are not known at time of sale, will be made and paid as heretofore. (Cir. 725; T. D. 1373.)

When real estate may be sold to satisfy taxes.

SEC. 3196. When goods, chattels, or effects sufficient to satisfy the taxes imposed upon any person are not found by the collector or deputy collector, he is authorized to collect the same by seizure and sale of real estate.

Proceedings for seizure and sale of real estate for taxes.

SEC. 3197. [*Amended by sec. 3, act of March 1, 1879 (20 Stat., 327).*] The officer making the seizure mentioned in the preceding section shall give notice to the person whose estate it is proposed to sell by giving him in hand, or leaving at his last or usual place of abode, if he has any such within the collection-district where the

said estate is situated, a notice, in writing, stating what particular estate is to be sold, describing the same with reasonable certainty, and the time when and place where said officer proposes to sell the same; which time shall not be less than twenty nor more than forty days from the time of giving said notice. The said officer shall also cause a notification to the same effect to be published in some newspaper within the county where such seizure is made, if any such there be, and shall also cause a like notice to be posted at the post-office nearest to the estate seized, and in two other public places within the county; and the place of said sale shall not be more than five miles distant from the estate seized, except by special order of the Commissioner of Internal Revenue. At the time and place appointed, the officer making such seizure shall proceed to sell the said estate at public auction, offering the same at a minimum price, including the expense of making such levy, and all charges for advertising and an officer's fee of ten dollars. When the real estate so seized consists of several distinct tracts or parcels, the officer making sale thereof shall offer each tract or parcel for sale separately, and shall, if he deem it advisable, apportion the expenses, charges, and fees aforesaid to such several tracts or parcels, or to any of them, in estimating the minimum price aforesaid. If no person offers for said estate the amount of said minimum price, the officer shall declare the same to be purchased by him for the United States; otherwise the same shall be declared to be sold to the highest bidder.

And in case the same shall be declared to be purchased for the United States, the officer shall immediately transmit a certificate of the purchase to the Commissioner of Internal Revenue, and, at the proper time, as hereafter provided, shall execute a deed therefor, after its preparation and the indorsement of approval as to its form by the United States district attorney for the district in which the property is situate, and shall without delay cause the same to be duly recorded in the proper registry of deeds, and immediately thereafter shall transmit such deed to the Commissioner of Internal Revenue.

Purchases for
United States.

And said sale may be adjourned from time to time by said officer for not exceeding thirty days in all, if he shall think it advisable so to do. If the amount bid shall not be then and there paid, the officer shall forthwith proceed to again sell said estate in the same manner.

Adjournment of
sale.

And it is hereby provided, That all certificates of purchase, and deeds of property purchased by the United States under the internal-revenue laws, on sales for taxes, or under executions issued from United States courts, which now are, or hereafter may be, found in the office of any collector, United States marshal, or United States district attorney, shall be immediately transmitted by

Deeds.

such officers respectively to the Commissioner of Internal Revenue.

* * * * *

(1) *Seizure of real property.*—Unless required by statute, a levy or seizure of real property for the purpose of sale to satisfy a debt or tax may be made without going upon the premises, by making a memorandum upon the warrant of the description of the premises for the purpose of a levy and sale.

(2) *Sale of real property.*—A deputy collector of internal revenue, to whom a warrant was directed for the collection of a delinquent tax due from A, levied upon 330 acres of land belonging to A, when said tax became due, by entering upon said warrant a correct description of the premises, by metes and bounds, but at the same time incorrectly stated therein that they were in the occupation of B, who lived over 2 miles distant from the premises, and afterwards offered the premises which said B lived on for sale upon the erroneous assumption that they were the premises of A, upon which he levied as above, and there being no bidders, declared the same purchased for the United States, for the amount of the tax, interest thereon, and charges. Held, that there was no valid sale of the premises, and that the United States took nothing by the subsequent conveyance to it from the collector. (*United States v. Hess*, 5 Sawyer, 533; 25 Int. Rev. Rec., 201, 240.)

When real estate is offered for sale under warrant of distraint and is bid in for the United States, the amount bid should be for no larger sum than is necessary to prevent the sale for an inadequate price. (T. D. 1654.)

If property is bid in for an amount equal to the tax it extinguishes the debt, and suit can not be maintained on the bond. (*United States v. Triplett*, 22 Int. Rev. Rec., 207.)

Bill in equity by party not in possession to remove cloud from title to land purchased by United States not authorized unless State statutes authorize it. (*Wilson v. United States*, 118 U. S., 86.)

It is a general rule that in the execution of a power to sell lands for nonpayment of taxes a strict compliance with all the material requirements of the statute authorizing the sale is required.

Regarding the seizure and sale of real estate for taxes. (Regulations No. 12, revised, p. 41; *United States v. Mackoy*, 2 Dill., 299; *Mansfield v. Excelsior Refining Co.*, 135 U. S., 326; 36 Int. Rev. Rec., 165.)

When real estate is bid in for the United States for taxes the collector will not take credit until the period for redemption has expired and deed executed. (T. D. 1803.)

Sec. 3224 forbids setting aside a sale of land made under restraint. (*Gouge v. Hart*, 250 Fed., 802.)

Offers for real estate to be deposited as internal-revenue collections. (Act May 27, 1908; T. D. 1373.)

The officer's fee of \$10 for making the sale of real estate under distraint proceedings is no longer allowed. (See sec. 3206; T. D. 1373.)

Manner of sale under orders and decrees of Federal courts.

SEC. 1. [Act of March 3, 1893 (27 Stat., 751).] That all real estate or any interest in land sold under any order or decree of any United States Court shall be sold at public sale at the Court-house of the county, parish, or city in which the property, or the greater part thereof, is located, or upon the premises, as the court rendering such order or decree of sale may direct.

SEC. 2. (Same.) That all personal property sold under any order or decree of any Court of the United States shall be sold as provided in the first section of this act, unless in the opinion of the court rendering such order or decree, it would be best to sell it in some other manner.

Sale of personal property.

SEC. 3. (Same.) That hereafter no sale of real estate under any order, judgment, or decree of any United States Court shall be had without previous publication of notices of such proposed sale being ordered and had once a week for at least four weeks prior to such sale in at least one newspaper printed, regularly issued and having a general circulation in the county and State where the real estate proposed to be sold is situated, if such there be. If said property shall be situated in more than one county or State, such notice shall be published in such of the counties where said property is situated, as the court may direct. Said notice shall, among other things, describe the real estate to be sold. The court may, in its discretion, direct the publication of the notice of sale herein provided for to be made in such other papers as may seem proper.

Publication of notice of sale of real estate.

SEC. 3198. Upon any sale of real estate, as provided in the preceding section, and the payment of the purchase money, the officer making the seizure and sale shall give to the purchaser a certificate of purchase, which shall set forth the real estate purchased, for whose taxes the same was sold, the name of the purchaser, and the price paid therefor; and if the said real estate be not redeemed in the manner and within the time hereafter provided, the said collector or deputy collector shall execute to the said purchaser, upon his surrender of said certificate, a deed of the real estate purchased by him as aforesaid, reciting the facts set forth in said certificate, and in accordance with the laws of the State in which such real estate is situate upon the subject of sales of real estate under execution.

Certificate of purchase. Deed.

SEC. 3199. The deed of sale given in pursuance of the preceding section shall be prima facie evidence of the facts therein stated; and if the proceedings of the officer as set forth have been substantially in accordance with the provisions of law, shall be considered and operate as a conveyance of all the right, title, and interest the party delinquent had in and to the real estate thus sold at the time the lien of the United States attached thereto.

Collector's deed to be prima facie evidence, etc.

In case of a distillery, although consent is given that the Government has a prior lien, only interest of distiller is transferred to purchaser. (*Mansfield v. Excelsior Refining Co.*, 36 Int. Rev. Rec., 165; 135 U. S., 326.)

Relative to deeds. (*Brown v. Goodwin*, 75 N. Y., 409; *Fox v. Stafford*, 90 N. C., 296; *Flemister v. Flemister*, 83 Ga., 79.)

SEC. 3200. Any collector or deputy collector may, for the collection of taxes imposed upon any person, and committed to him for collection, seize and sell the lands of

Collector may seize lands of delinquent in any district of same State.

such person situated in any other collection district within the State in which such officer resides; and his proceedings in relation thereto shall have the same effect as if the same were had in his proper collection district.

Redemption of
land prior to
sale.

SEC. 3201. Any person whose estate may be proceeded against as aforesaid shall have the right to pay the amount due, together with the costs and charges thereon, to the collector or deputy collector at any time prior to the sale thereof, and all further proceedings shall cease from the time of such payment.

Redemption of
land after sale.

SEC. 3202. The owners of any real estate sold as aforesaid, their heirs, executors, or administrators, or any person having any interest therein, or a lien thereon, or any person in their behalf, shall be permitted to redeem the land sold, or any particular tract thereof, at any time within one year after the sale thereof, upon payment to the purchaser, or, in case he can not be found in the county in which the land to be redeemed is situate, then to the collector of the district in which the land is situate, for the use of the purchaser, his heirs or assigns, the amount paid by the said purchaser and interest thereon at the rate of twenty per centum per annum.

The local State laws or the rules of United States courts govern as to the redemption of land sold under execution. (Regulations No. 12, revised, p. 40.)

Record of
sales.

SEC. 3203. [*Amended by sec. 3, act of March 1, 1879 (20 Stat., 327).*] It shall be the duty of every collector to keep a record of all sales of land made in his collection district, whether by himself or his deputies, or by another collector, in which shall be set forth the tax for which any such sale was made, the dates of seizure and sale, the name of the party assessed, and all proceedings in making said sale, amount of fees and expenses, the name of the purchaser and the date of the deed; and said record shall be certified by the officer making the sale. And on or before the fifth day of each succeeding month he shall transmit a copy of such record of the preceding month to the Commissioner of Internal Revenue.

And it shall be the duty of every deputy making sale, as aforesaid, to return a statement of all his proceedings to the collector, and to certify the record thereof. In case of the death or removal of the collector, or the expiration of his term of office from any other cause, said record shall be delivered to his successor in office; and a copy of every such record, certified by the collector, shall be evidence in any court of the truth of the facts therein stated.

Record of sales, Book No. 21. Report on Form 128.

Redemptions to
be entered on
record.

SEC. 3204. When any lands sold, as aforesaid, are redeemed as heretofore provided, the collector shall make entry of the fact upon the record mentioned in the preceding section, and the said entry shall be evidence of such redemption.

SEC. 3205. Whenever any property, personal or real, which is seized and sold by virtue of the foregoing provisions, is not sufficient to satisfy the claim of the United States for which distraint or seizure is made, the collector may, thereafter, and as often as the same may be necessary, proceed to seize and sell, in like manner, any other property liable to seizure of the person against whom such claim exists, until the amount due from him, together with all expenses, is fully paid.

Successive seizures may be made, when.

SEC. 3206. The Commissioner of Internal Revenue shall by regulation determine the fees and charges to be allowed in all cases of distraint and other seizures; and shall have power to determine whether any expense incurred in making any distraint or seizure was necessary.

Fees and charges in seizure cases.

Regulations, No. 2, revised; T. D. 1373; T. D. 1521.

SEC. 3207. In any case where there has been a refusal or neglect to pay any tax, and it has become necessary to seize and sell real estate to satisfy the same, the Commissioner of Internal Revenue may direct a bill in chancery to be filed, in a district (or circuit) court of the United States, to enforce the lien of the United States for tax upon any real estate, or to subject any real estate owned by the delinquent, or in which he has any right, title, or interest, to the payment of such tax. All persons having liens upon or claiming any interest in the real estate sought to be subjected as aforesaid, shall be made parties to such proceedings, and be brought into court as provided in other suits in chancery therein. And the said court shall, at the term next after the parties have been duly notified of the proceedings, unless otherwise ordered by the court, proceed to adjudicate all matters involved therein, and finally determine the merits of all claims to and liens upon the real estate in question, and, in all cases where a claim or interest of the United States therein is established, shall decree a sale of such real estate, by the proper officer of the court, and a distribution of the proceeds of such sale according to the findings of the court in respect to the interests of the parties and of the United States.

Proceedings in chancery to subject real estate to payment of tax.

"The Judicial Code," act of March 3, 1911 (36 Stat., 1087), which went into effect January 1, 1912, abolished circuit courts and imposed the powers and duties thereof on district courts.

The provision for suit in equity to enforce a lien for taxes does not supersede the remedy by distraint, but is cumulative (*Blacklock v. United States*, 208 U. S., 75, affirming 41 Ct. Cls., 89; *Alkan v. Bean*, 8 Biss., 83; 23 Int. Rev. Rec., 351.)

Bill under section 3207 to subject real estate to payment of assessment on distilled spirits. (*United States v. Rindskopf*, 8 Biss., 507.)

Bill in equity to enforce lien on distillery. (*United States v. Mackoy*, 2 Dill., 229.)

The Government loses none of its remedies to collect its revenue unless there is an express repeal or abrogation of some existing remedy. (18 Op. Atty. Gen., 248.)

• Commissioner to have charge of real estate acquired under internal-revenue laws, etc.

SEC. 3208. [*Amended by sec. 3, act of March 1, 1879 (20 Stat., 327).*] The Commissioner of Internal Revenue shall have charge of all real estate which is now or shall become the property of the United States by judgment of forfeiture under the internal-revenue laws, or which has been or shall be assigned, set off, or conveyed by purchase or otherwise to the United States in payment of debts or penalties arising under the laws relating to internal revenue, or which has been or shall be vested in the United States by mortgage or other security for the payment of such debts, and of all trusts created for the use of the United States in payment of such debts due them; and, with the approval of the Secretary of the Treasury, may at public vendue, and upon not less than twenty days' notice, sell and dispose of all real estate owned or held by the United States as aforesaid; and until such sale the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may lease such real estate owned as aforesaid on such terms and for such period as they shall deem expedient.

And in cases where real estate has or may become the property of the United States by conveyance or otherwise, in payment of or as security for a debt arising under the laws relating to internal revenue, and such debt shall have been paid, together with the interest thereon, at the rate of one per centum per month, to the United States, within two years from the date of the acquisition of such real estate; it shall be lawful for the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, to release by deed, or otherwise convey such real estate to the debtor from whom it was taken, or to his heirs or other legal representatives.

Solicitor of the Treasury to have charge of real estate owned by United States in certain cases. (Sec. 3750.)

SEC. 3470. At every sale, on execution, at the suit of the United States, of lands or tenements of a debtor, the United States may, by such agent as the Solicitor of the Treasury shall appoint, become the purchaser thereof; but in no case shall the agent bid in behalf of the United States a greater amount than that of the judgment for which such estate may be exposed to sale and the costs. Whenever such purchase is made, the marshal of the district in which the sale is held shall make all needful conveyances, assignments, or transfers to the United States.

Section 3470 does not apply to cases arising under the internal-revenue laws. (To United States Attorney Stripling, Oct. 8, 1898.)

Commissioner not authorized to take charge of lands acquired in satisfaction of judgments recovered on the official bonds of collectors of internal revenue. (16 Op. Atty. Gen., 143.)

Real estate purchased by the Government is not subject to State taxation after it has become the property of the United States. (*Van Brocklin v. State of Tennessee*, 117 U. S., 151.)

Regulations No. 12, revised, page 35.

SEC. 3209. Whenever a collector has on any list duly returned to him the name of any person not within his collection district who is liable to tax, or of any person so liable who has, in the collection district in which he resides, no sufficient property subject to seizure or distraint, from which the money due for tax can be collected, such collector shall transmit a statement containing the name of the person liable to such tax, with the amount and nature thereof, duly certified under his hand, to the collector of any district to which said person shall have removed, or in which he shall have property, real or personal, liable to be seized and sold for tax. And the collector to whom the said certified statement is transmitted shall proceed to collect the said tax in the same way as if the name of the person and objects of tax contained in the said certified statement were on any list of his own collection district; and he shall, upon receiving said certified statement as aforesaid, transmit his receipt for it to the collector sending the same to him.

When list to be sent to district where the party taxed resides or has property.

SEC. 3210. The gross amount of all taxes and revenues received or collected by virtue of this title, or of any law hereafter enacted providing internal revenue, shall be paid, by the officers receiving or collecting the same, daily into the Treasury of the United States, under the instructions of the Secretary of the Treasury, without any abatement or deduction on account of salary, compensation, fees, costs, charges, expenses, or claims of any description; and a certificate of such payment, stating the name of the depositor and the specific account on which the deposit was made, signed by the Treasurer, assistant treasurer, designated depository, or proper officer of a deposit bank, shall be transmitted to the Commissioner of Internal Revenue: *Provided*, That in districts where, from the distance of the officer, collector, or agent receiving or collecting such taxes and revenues from a proper Government depository, the Secretary of the Treasury may deem it proper, he may extend the time for making such payment, not exceeding, however, in any case a period of one month.

Collections to be paid into Treasury daily.

Model form of indorsement on certificates of deposit. (T. D. 1779.)

Collectors can not deposit short to balance previous over-deposit. (T. D. 2225.)

Instructions relative to deposit of checks received. (T. D. 2846.)

SEC. 1. [*Act of May 10, 1916 (39 Stat., 66).*]

Collectors of internal revenue shall pay daily into the Treasury of the United States, under instructions of the Secretary of the Treasury, the gross amounts of all collections of whatever nature, made by authority of law (including sums offered in compromise under the

Collections to be paid daily into the Treasury.

provisions of section thirty-two hundred and twenty-nine, Revised Statutes, as well as all other money received for which they are accountable under their respective collection bonds required to be given under section thirty-one hundred and forty-three, Revised Statutes), and the same shall be covered into the Treasury as internal-revenue collections: *Provided*, That nothing herein contained shall be construed as affecting the provisions of subsection "D" of Section II, act of October third, nineteen hundred and thirteen, in the matter of withholding the normal income tax at the source.

SEC. 1. [*Act of May 27, 1908 (35 Stat., 325).*]

Collectors to
render accounts
quarterly.

Collectors of internal revenue shall render their revenue accounts quarterly.

See section 3216, p. 135.

Instructions to officers: Regulations No. 2, revised, p. 10. Partial payment for special tax stamps. (T. D. 1492.)

Deposit of collections. (T. D. 2332.)

The standard silver dollar and silver certificates authorized by the act of February 28, 1878 (20 Stat., 25), are legal tender to any amount. Silver coins less than \$1 legal tender to amount of \$10, act June 9, 1879 (21 Stat., 7). Gold coins (sec. 3511). Silver certificates for \$1, \$2, and \$5, act March 3, 1887. (24 Stat., 515.) Standard of value fixed—gold dollar. (Act March 14, 1900, 31 Stat., 45.)

An act relating to Hawaiian silver coinage and silver certificates. (Act January 14, 1903, 32 Stat., 770.)

Miltenerberger v. Cooke, 18 Wall., 421, decided that a collector in accepting a draft in payment of a tax acts at his own risk and does not bind the United States.

American Brewing Co. v. United States (33 Ct. Cls., 348).

Depositories.

SEC. 3211. The Secretary of the Treasury is authorized to designate one or more depositories in each State, for the deposit and safe-keeping of the money collected by virtue of the internal-revenue laws; and the receipt of the proper officer of such depository to a collector for the money deposited by him shall be a sufficient voucher for such collector in the settlement of his accounts at the Treasury Department.

See section 89, Criminal Code, p. 668.

Any form of exchange, which designated depositories will receive as cash, issuing therefor certificates of deposit, under the provisions of sec. 3211, Revised Statutes, may be received in payment of taxes.

Disposition of public funds, Regulations No. 2, revised.

Regulations for the deposit of public moneys. (Dept. Cir. No. 105, December 27, 1917.)

Proper disposition of certificates of deposit. (Dept. Cir. No. 12, April 17, 1913.)

Certified checks
receivable for
taxes.

Act of March 2, 1911 (36 Stat., 965). That it shall be lawful for collectors of customs and of internal revenue to receive for duties on imports and internal taxes certified checks drawn on national and State banks, and trust companies during such time and under such regulations as the Secretary of the Treasury may prescribe. No per-

son, however, who may be indebted to the United States on account of duties on imports or internal taxes who shall have tendered a certified check or checks as provisional payment for such duties or taxes, in accordance with the terms of this Act, shall be released from the obligation to make ultimate payment thereof until such certified check so received has been duly paid; and if any such check so received is not duly paid by the bank on which it is drawn and so certifying, the United States shall, in addition to its right to exact payment from the party originally indebted therefor, have a lien for the amount of such check upon all the assets of such bank; and such amount shall be paid out of its assets in preference to any or all other claims whatsoever against said bank, except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such bank.

(Dept. Cir. No. 11, March 27, 1913; T. D. 1990.)

Act of March 3, 1913 (37 Stat., 733). It shall be lawful for collecting officers to receive certified checks drawn on national and State banks and trust companies, during such time and under such regulations as the Secretary of the Treasury may prescribe, in payment for duties on imports, internal taxes, and all public dues, including special customs deposits; and the act of March second, nineteen hundred and eleven, entitled "An act to authorize the receipt of certified checks for duties on imports and internal taxes," is hereby amended accordingly.

Authority to
receive certified
checks extended.

Collectors may accept personal and uncertified checks, drafts, etc., for collection only. If they elect, however, to accept such forms of exchange in payment of internal-revenue taxes, they do so at their own risk, and are responsible under their bonds for any loss that may occur by reason of such acceptance. In no case can any expense incident to cashing checks or other form of exchange be paid by the Government. (T. D. 2158.)

Indorsement of certified checks by collector "without recourse" not necessary. (T. D. 1916.)

SEC. 1010. [*Act of October 3, 1917 (40 Stat., 300).*] That under the rules and regulations prescribed by the Secretary of the Treasury, collectors of internal revenue may receive, at par and accrued interest, certificates of indebtedness issued under section six of the Act entitled "An Act to authorize an issue of bonds to meet expenditures for the national security and defense, and, for the purpose of assisting in the prosecution of the war, to extend credit to foreign governments, and for other purposes," approved April twenty-fourth, nineteen hundred and seventeen, and any subsequent Act or Acts, and uncertified checks in payment of income and excess-profits taxes, during such time and under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe; but if

Certificates of
indebtedness and
uncertified checks
receivable for in-
come and excess
profits taxes.

a check so received is not paid by the bank on which it is drawn the person by whom such check has been tendered shall remain liable for the payment of the tax and for all legal penalties and additions the same as if such check had not been tendered.

Instructions relative to acceptance of uncertified checks. (T. D. 2027.)

Instructions relative to acceptance of certificates of indebtedness for income and excess profits taxes. (T. D. 2639.)

Certificates of indebtedness and uncertified checks receivable for taxes payable other than by stamp.

SEC. 1314. [*Act of February 24, 1919 (40 Stat., 1057).*] That collectors may receive, at par with an adjustment for accrued interest, certificates of indebtedness issued by the United States and uncertified checks in payment of income, war-profits and excess-profits taxes and any other taxes payable other than by stamp, during such time and under such regulations as the Commissioner, with the approval of the Secretary, shall prescribe; but if a check so received is not paid by the bank on which it is drawn the person by whom such check has been tendered shall remain liable for the payment of the tax and for all legal penalties and additions the same as if such check had not been tendered.

Regulations relative to authority of collectors. (T. Ds. 2851, 2973.)

Collectors' monthly statement; accounts.

SEC. 3212. Every collector shall, at the expiration of each month after he commences his collections, transmit to the Commissioner of Internal Revenue a statement of the collections made by him within the month. And every collector shall complete the collection of all sums assigned to him for collection, and shall pay over the same into the Treasury, and shall render his accounts to the Treasury Department as often as he may be required.

See provisions of law in Appendix as to penalty for using public funds, failing to render accounts, etc.

See section 12, act July 31, 1894, Appendix, pages 663, 665.

Collectors are required to render disbursing accounts monthly and revenue accounts quarterly. (Act May 27, 1908, 35 Stat., 325.)

They will render accounts upon giving new bonds; disbursing account upon giving new disbursing officer's bond and revenue account upon giving new collector's bond, and final account upon separation from the service.

The Auditor for the Treasury Department shall receive and examine all accounts for salaries and incidental expenses of the office of the Secretary of the Treasury, and all bureaus and offices under his direction, all accounts relating to * * * internal revenue * * *. (Sec. 7, act July 31, 1894; Supp., R. S., vol. 2, p. 213. "Dockery bill.")

Abstracts of collections and deposits to be prepared in triplicate. (T. D. 1816.)

Suits, etc., for fines, penalties, and forfeitures, and for taxes.

SEC. 3213. It shall be the duty of the collectors, in their respective districts, subject to the provisions of this title, to prosecute for the recovery of any sums which may be forfeited by law. All suits for fines, penalties, and forfeitures, where not otherwise provided for, shall be brought in the name of the United States, in any proper

form of action, or by any appropriate form of proceeding, *qui tam* or otherwise, before any district court of the United States for the district within which said fine, penalty, or forfeiture may have been incurred, or before any other court of competent jurisdiction; and taxes may be sued for and recovered in the name of the United States, in any proper form of action, before any circuit or district court of the United States for the district within which the liability to such tax is incurred, or where the party from whom such tax is due resides at the time of the commencement of the said action.

See sections 43 and 44, Judicial Code.

"The Judicial Code," act of March 3, 1911 (36 Stat., 1087), which went into effect January 1, 1912, abolished circuit courts and imposed the powers and duties thereof on district courts.

See section 733, in Appendix, page 638; section 838, page 659; section 3164, page 94.

Suits for the recovery of taxes can be brought at any time, whether the taxes have been assessed or not, and whether they are assessable or not. (*Dollar Savings Bank v. United States*, 19 Wall., 227; 19 Int. Rev. Rec., 89. *King v. United States*, 99 U. S., 229. *United States v. Little Miami Co. and X. R. R. Co.*, 1 Fed. 700. *United States v. Tilden*, 9 Ben., 368; Fed. Cas. No. 16519; 24 Int. Rev. Rec., 99; T. D. 676.)

A common-law action of debt lies in favor of the Government whenever by accident, mistake or fraud, taxes have not been paid; thus the Government may recover a personal judgment for a tax whenever there exists a duty to pay, provided another remedy has not been made exclusive by clear and specific declaration. (*United States v. Nashville, Chattanooga & St. Louis Railway*, 249 Fed., 678; T. D. 2697.)

Suit to collect taxes; no limitation binding upon the United States. (*United States v. Minneapolis Threshing Machine Co.*, 229 Fed., 1019; T. D. 2285.)

Suits commenced in a criminal case on filing an indictment; in a civil case on filing a declaration. (T. D. 18941.)

A civil action upon a bond grows out of a contract. The penal sum named in a bond is not a penalty within the statute of limitations. (*Raymond v. United States*, 14 Blatchf., 451; Fed. Cas. No. 11596.)

Interest on taxes sued for runs from time taxes were due. (*United States v. Erie Railroad*, 106 U. S., 327; 29 Int. Rev. Rec., 58.) See *Billings v. United States*, 232 U. S., 261.

Interest due under the general principle of law on the subject. (*Young v. Godbe*, 15 Wall., 562. *Bonnafeon v. United States*, 14 Ct. Cls., 484.)

Partners civilly liable for violation of law committed by copartner. (*United States v. Thomasson*, 4 Biss., 99; Fed. Cas. No. 16478.)

Indictment—recovery of fines and penalties. (*United States v. Craft*, 43 Fed., 374; 36 Int. Rev. Rec., 360.)

A penalty may be recovered by indictment or by civil action in the form of an action for debt. (*Lees v. United States*, 150 U. S., 479. *United States v. Foster*, 2 Biss., 453; 19 Int. Rev. Rec., 5; Fed. Cas. No. 15142.) But in case of alternative punishment see *United States v. Morin*, 4 Biss., 93; Fed. Cas. No. 15810.

A penalty may be sued for in a civil action. (*Stockwell v. United States*, 13 Wall., 543.)

Where the penalty is a fine on conviction or imprisonment or both, civil action of debt not the proper form of action. (*United States v. Claflin*, 97 U. S., 546.)

The term penalty involves the idea of punishment and its character is not changed by the mode in which it is inflicted, whether by civil action or a criminal prosecution. (*United States v. Chouteau*, 102 U. S., 608; 27 Int. Rev. Rec., 49.)

Cumulative penalties. (*Case of Leszynsky*, 25 Int. Rev. Rec., 71; Fed. Cas. No. 8279.)

A judgment in a criminal case must conform to the requirements of the statute, and any variation therefrom, either in the character or extent of the punishment inflicted, avoids the judgment. (*Woodruff v. United States*, 58 Fed., 768.)

A court has no authority to impose a fine only in a case where the law requires fine and imprisonment. (*United States v. Braun and Fitts*, 158 Fed., 456.)

It was held by the Supreme Court in *ex parte Karstendick* (98 U. S., 396) that in cases where the statute makes hard labor a part of the punishment it is imperative upon the court to include that in the sentence. (*In re Johnson*, 46 Fed., 481.)

All participants in misdemeanors are liable as principals. (*United States v. Sykes*, 58 Fed., 1000. *United States v. White & Paller*, T. D. 1334.)

Section 332 of the act of March 4, 1909 (35 Stat., 1152), Criminal Code.—Whoever directly commits any act constituting an offense defined in any law of the United States, or aids, abets, counsels, commands, induces, or procures its commission, is a principal.

Felonies defined. (See p. 642.)

Suits for taxes, etc., not to be brought without sanction of Commissioner.

SEC. 3214. No suit for the recovery of taxes, or of any fine, penalty, or forfeiture, shall be commenced unless the Commissioner of Internal Revenue authorizes or sanctions the proceedings: *Provided*, That in case of any suit for penalties or forfeitures brought upon information received from any person, other than a collector or deputy collector, the United States shall not be subject to any costs of suit.

Section 969, Appendix, page 646, has a similar provision to that contained in the above proviso.

Circular 319, relative to suits for taxes (34 Int. Rev. Rec., 333); Circular 331, relative to suits for taxes. June 21, 1889 (35 Int. Rev. Rec., 197).

Right of the United States to sue for taxes. Set-offs growing out of independent claims can not be pleaded. (*United States v. Pacific R. R.*, 4 Dill., 66; Fed. Cas. No. 15983; see sec. 951, p. 685.)

A party claiming a credit which was not presented to the accounting officers of the Treasury can not set it up in an action brought by the United States against him for the recovery of a debt. (*Railroad Co. v. United States*, 101 U. S., 543; 26 Int. Rev. Rec., 165.)

Regulations as to suits, for government of officers.

SEC. 3215. It shall be the duty of the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, to establish such regulations, not inconsistent with law, for the observance of revenue officers, district attorneys, and marshals, respecting suits arising under the internal-revenue laws in which the United States is a party, as may be deemed necessary for the just

responsibility of those officers and the prompt collection of all revenues and debts due and accruing to the United States under such laws.

Regulations No. 12, revised.

The Solicitor of the Treasury is authorized to establish regulations for the observance of district attorneys and marshals in suits in which the United States is a party, other than those arising under the internal-revenue laws. (Secs. 377 and 379, R. S.)

Duties of district attorneys as to prosecutions, etc., section 838, R. S., Appendix, p. 659.)

Duty of collectors to look after suits. (T. D. 702.)

United States attorneys are instructed that there should be no unnecessary delay in proceedings to enforce collection of judgments. (T. D. 848, May 23, 1901.)

SEC. 3216. All judgments and moneys recovered or received for taxes, costs, forfeitures, and penalties, shall be paid to collectors as internal taxes are required to be paid.

Moneys recovered by suits to be paid to collectors.

The gross amount of all moneys received for the use of the United States is required to be paid by the officer or agent receiving the same into the Treasury at as early a day as practicable, without any abatement or deduction on account of salary, fees, costs, charges, expenses, or claim of any description whatever. (Sec. 3617, p. 662, Appendix. See also sec. 3210, p. 129, and act of May 27, 1908, p. 130.)

See section 8621, as amended by act of May 23, 1896, page 663.

Instructions to clerks of courts as to disposition of moneys in the registry of the court. (Regulations No. 12, revised, p. 21.)

Instructions to attorneys, clerks, etc., by the Department of Justice, 1916. (T. D. No. 754.)

Moneys recovered on forfeited recognizances or bail bonds are not classed as internal-revenue moneys and should be paid into the Treasury by the clerk of court and not turned over by him to the collector of internal revenue. (See Digest of Opinions of Solicitor of the Treasury, 1885-1903, p. 240.)

Taxed costs payable to the collector. (United States v. Wolters, 51 Fed., 896.)

Costs, as well as all other moneys collected in cases arising under the internal-revenue laws, are required by the law to be paid over by the court clerks to the collectors of the districts in which these cases arise. (T. D. 19306.) See notes under section 797, as amended, p. 660.

SEC. 3217. When any collector fails either to collect or to render his account, or to pay over in the manner or within the times provided by law, the (First) Comptroller of the Treasury shall, immediately after evidence of such delinquency, report the same to the Solicitor of the Treasury, who shall issue a warrant of distress against such delinquent collector, directed to the marshal of the district, expressing therein the amount with which the said collector is chargeable, and the sums, if any, which have been paid over by him, so far as the same are ascertainable. And the said marshal shall, himself, or by his deputy, immediately proceed to levy and collect the sum which may remain due, with five

Dues from delinquent collector to be collected by distraint and sale.

per centum thereon, and all the expenses and charges of collection, by distress and sale of the goods and chattels, or any personal effects of the delinquent collector, giving at least five days' notice of the time and place of sale, in the manner provided by law for advertising sales of personal property on execution in the State wherein such collector resides. And the bill of sale of the officer of any goods, chattels, or other personal property, distrained and sold as aforesaid, shall be conclusive evidence of title to the purchaser, and prima-facie evidence of the right of the officer to make such sale, and of the correctness of his proceedings in selling the same. And for want of goods and chattels, or other personal effects of such collector, sufficient to satisfy any warrant of distress, issued as aforesaid, the real estate of such collector, or so much thereof as may be necessary for satisfying the said warrant, after being advertised for at least three weeks next before the time of sale, in not less than three public places in the collection district, and in one newspaper printed in the county or district, if any there be, shall be sold at public auction by the marshal or his deputy. Upon such sale, the marshal shall make and deliver to the purchaser of the premises sold a deed of conveyance thereof, to be executed and acknowledged in the manner and form prescribed by the laws of the State in which said lands are situated, and said deed so made shall invest the purchaser with all the title and interest of the defendant named in said warrant, existing at the time of the seizure thereof. And all moneys that may remain of the proceeds of such sale of personal or real property, after satisfying the said warrant of distress, and paying the reasonable costs and charges of sale, shall be returned to the proprietor of the property sold as aforesaid.

See sections 3624 and 3625, in Appendix, p. 666, as to proceedings against officers failing to account for public moneys.

* * * The First Comptroller of the Treasury shall hereafter be known as Comptroller of the Treasury.

He shall perform the same duties and have the same powers and responsibilities (except as modified by this act) as those now performed by or appertaining to the First and Second Comptrollers of the Treasury and the Commissioner of Customs; and all provisions of law not inconsistent with this act, in any way relating to them or either of them, shall hereafter be construed and held as relating to the Comptroller of the Treasury. * * * (Sec. 4, act July 31, 1894; Supp., R. S., vol. 2, p. 213.)

Collectors to be charged with, what.

SEC. 3218. Every collector shall be charged with the whole amount of taxes, whether contained in lists transmitted to him by the Commissioner of Internal Revenue, or by other collectors, or delivered to him by his predecessor in office, and with the additions thereto, with the par value of all stamps deposited with him, and with all moneys collected for penalties, forfeitures, fees, or costs;

and he shall be credited with all payments into the Treasury made as provided by law, with all stamps returned by him uncanceled to the Treasury, and with the amount of taxes contained in the lists transmitted in the manner heretofore provided to other collectors, and by them receipted as aforesaid; also with the amount of the taxes of such persons as may have absconded, or become insolvent, prior to the day when the tax ought, according to the provisions of law, to have been collected, and with all uncollected taxes transferred by him or by his deputy acting as collector to his successor in office: *Provided*, That it shall be proved to the satisfaction of the Commissioner of Internal Revenue, who shall certify the facts to the (First) Comptroller of the Treasury, that due diligence was used by the collector. And each collector shall also be credited with the amount of all property purchased by him for the use of the United States, provided he faithfully account for and pay over the proceeds thereof upon a resale of the same as required by law.

Due diligence.

See note under section 3217 as to change from First Comptroller to Comptroller.

Claims for credit. (Sec. 951, p. 685, Appendix.)

Certificate of due diligence condition precedent to allowance of credit. (United States v. Kimball, 101 U. S. 726.)

Question of due diligence and other questions relative to collectors' accounts considered. (United States v. Barton Able, 15 Int. Rev. Rec., 41, 50; Fed. Cas. No. 14417.)

Claims for credit for stamps issued in accordance with notice of accepted offers in compromise should be made on Form 630: Regulations No. 2, revised, p. 30. (T. Ds. 1399, 1565.)

Fractions of a cent should never be entered in the records of daily receipts. (T. D. 289, 1901.)

See section 3444, page 588, articles in bonded warehouses.

SEC. 3219. In case of the death, resignation, or removal of any collector, all lists and accounts of taxes uncollected shall be transferred to his successor in office as soon as such successor is appointed and qualified, and it shall be the duty of such successor to collect the same.

Death, etc., of collector; uncollected balances.

SEC. 3220. [Amended by sec. 1316 (a), act of February 24, 1919 (40 Stat., 1057).] The Commissioner of Internal Revenue, subject to regulations prescribed by the Secretary of the Treasury, is authorized to remit, refund, and pay back all taxes erroneously or illegally assessed or collected, all penalties collected without authority, and all taxes that appear to be unjustly assessed or excessive in amount, or in any manner wrongfully collected; also to repay to any collector or deputy collector the full amount of such sums of money as may be recovered against him in any court, for any internal revenue taxes collected by him, with the cost and expenses of suit; also all damages and costs recovered against any assessor, assistant assessor, collector, deputy collector, agent, or inspector, in any suit brought against him by reason of anything done in the due performance of his official duty, and shall make report to Congress at the beginning

Remission and refunding of taxes, penalties, etc.

of each regular session of Congress of all transactions under this section.

See section 989, page 654, as to certificate of probable cause.

Abatements and refunding may also be made to distillers in cases of unavoidable accident or misunderstanding. (Sec. 6, act March 1, 1879, p. 142.)

The filing of claim for abatement does not operate as a stay in serving notice and demand in order to perfect tax lien. (T. D. 1995.)

An appeal to the Commissioner for return of the tax is a condition precedent to a suit for recovery of the tax. (Cheatham v. United States, 92 U. S., 85; 22 Int. Rev. Rec., 30.)

The Government has provided a complete system of corrective justice in regard to all taxes imposed, founded upon the idea of appeals within the executive departments. (United States v. Pacific Railroad, 4 Dill., 66; Fed. Cas., No. 15983.)

The Commissioner possesses no equity power in cases of abatement. If the tax is a legal one, the Commissioner can not abate it. (Decision No. 180, 36 Int. Rev. Rec., 13.)

A rejected claim may be prosecuted against the collector, and an allowed claim not paid may be sued for in the Court of Claims. (United States v. Real Estate Savings Bank, 104 U. S. (14 Otto), 728; 28 Int. Rev. Rec., 87.)

When the Commissioner of Internal Revenue has rendered a decision allowing a claim, and has issued his certificate accordingly, but payment is refused by the accounting officer, the claimant is entitled to recover in a suit in the Court of Claims. (Kaufman v. United States, 96 U. S., 567, affirming 11 Ct. Cls., 659; 24 Int. Rev. Rec., 135.)

Protest.—It is a principle universally recognized that an action in a court can not be maintained for the recovery back of money paid in discharge of a tax illegally assessed, unless the payment was made under protest. But that principle has been held by the Commissioner of Internal Revenue and other officers of the department as too technical and too exacting for application to claims for refund of taxes under this section. (Real Estate Savings Bank v. United States (1880), 16 Ct. Cls., 335; 27 Int. Rev. Rec., 154.)

No written notice of protest required. (Wright v. Blakeslee, 101 U. S., 174; 26 Int. Rev. Rec., 179.)

Rule as to protest. (Chesebrough v. United States, 192 U. S., 253; T. D. 747; United States v. New York and Cuban Mail Steamship Co., 200 U. S., 488; 25 Op. Atty. Gen., 605; 26 Id., 472.)

Protest. (Abrast Realty Co. v. Maxwell, 206 Fed., 333; Beer v. Moffatt, 192 Fed., 984.)

What may constitute duress. (Cambria Steel Co. v. McCoach, 225 Fed., 278.)

Voluntary payment. (Railroad Co. v. Commissioners, 98 U. S., 541.)

Though there is some conflict in the dicta of the Supreme Court, the true doctrine is that, when taxes are paid under protest or with notice that the payer contends that they are illegal and intends to institute suit to compel their repayment, a sufficient foundation for suit to recover has been established. (Herold v. Kahn (1908), 159 Fed., 608.)

The apprehension of being stopped in business is sufficient duress to make payments involuntary. (Swift Co. v. United States, 111 U. S., 22.)

Interest.—United States does not pay interest on any claim which is due, because it is supposed to be always

ready to pay. (*Stephani's Case*, 1 Lawrence Dec., 35; 26 Int. Rev. Rec., 313.)

It is a well-settled principle that interest is not allowed on claims against the United States unless the Government has stipulated to pay interest, or it is given by express statutory provision. (*Angarica v. Bayard*, 127 U. S., 260; *United States v. New York*, 160 U. S., 619; 7 Op. Atty. Gen., 523; 9 Id., 57, 449. See secs. 963, 966, Appendix, p. 649.)

Where an illegal tax has been collected, the citizen who has paid it, and has been obliged to bring suit against the collector, is entitled to interest, in the event of recovery, from the time of the illegal exaction. (*Erskine v. Van Arsdale*, 15 Wall., 75; *Conant v. Kinney* (1908), 162 Fed., 581; 166 Fed., 720; *Penn. Co., etc., v. McClain*, 105 Fed., 367; 108 Id., 618; *Klock Produce Co. v. Hartson*, 212 Fed., 758.)

When a person accepts from the Government, without objection, payment of the sum illegally exacted, he gives up his right to sue for interest. (*Stewart v. Barnes*, 153 U. S., 456.)

Law relative to interest in suits against collectors reviewed. (*Commissioners of Sinking Fund of Louisville v. Buckner*, 48 Fed., 533.)

Where interest was allowed only from commencement of suit. (*Burrough v. Able*, 105 Fed., 366.)

The Government is not liable for interest after final judgment. *United States ex rel. v. John Sherman*, 98 U. S., 567; 25 Int. Rev. Rec., 198; *Schell v. Cochran*, 107 U. S., 628.)

Interest allowed from date of payment to date of final judgment. (VIII Compt. Dec., 776.)

In an action against the collector for recovery of taxes illegally exacted interest is recoverable without any statute to that effect. (*State Line S. R. Co. v. Davis*, 228 Fed., 246, 250.)

Interest not allowed on judgment against collectors. (21 Compt. Dec., 180.)

Interest can not be awarded against the United States without legislative warrant. (*Treat v. Farmers' Loan and Trust Co.*, 185 Fed., 760.) This does not apply to suit against collectors for recovery of taxes. (*Natl. Home v. Parrish*, 229 U. S., 496.)

Action against collector to recover taxes and penalties paid under protest is not action against United States until after final judgment and certificate of probable cause from trial court, when it becomes claim against United States, prior to which time plaintiff may recover interest, unless review of judgment by an appellate court is obtained, in which event judgment on mandate of the appellate court will be treated as final judgment. (*Klock Produce Co. v. Hartson*, 212 Fed., 758.)

Claims for refund.—Powers conferred upon the commissioner relative to refund of taxes. (*Barnett et al. v. United States*, 16 Ct. Cls., 515; VIII Comp. Dec., 85.)

If an appeal is taken from an assessment and decided against the appellant, and the tax is afterwards collected, it is not necessary to take a second appeal after payment before commencing suit to recover the tax. (*San Francisco Savings Society v. Cary*, 2 Sawy., 393; 17 Int. Rev. Rec., 109; Fed. Cas. No. 12317.)

No claim for refund necessary when abatement claim has been made and considered upon its merits. (*De Bary v. Dunne*, 162 Fed., 961; *Schwartzchild & Sulzberger Co. v. Rucker*, 143 Fed., 656; T. D., 974; *Grier v. Tucker*, 150 Fed., 657; *Cureton v. Rucker* (N. D. of Georgia), T. D., 1293; *contra*, *Hastings v. Herold*, 184 Fed., 759.)

Appeals for refund of taxes should be presented through collectors within two years after the tax is paid. Presentation to collector is equivalent to presentation to the Commissioner. (*Real Estate Savings Bank v. The United States*, 16 Ct. Cls., 335; 27 Int. Rev. Rec., 153; 104 U. S., 728; 28 Int. Rev. Rec., 27.)

No authority to remit 50 per cent penalty unless illegally collected. (VI Comp. Dec., 763; 8 Id., 670.)

The words "wrongfully collected" do not give jurisdiction for refunding further than the word "illegally." No equity powers conferred on the Commissioner of Internal Revenue. (*Ridgway Case*, 16 Op. Atty. Gen., 667.)

Commissioner authorized, not obliged, to refund. (13 Op. Atty. Gen., 439.)

Right of Commissioner to reconsider claim for refund and revoke allowance before payment. (*Ridgway v. United States*, 18 Ct. Cls., 707; 29 Int. Rev. Rec., 197.)

What constitutes a final award by the Commissioner. (*Stotesbury v. United States*, 23 Ct. Cls., 285; 34 Int. Rev. Rec., 142; 146 U. S., 196.)

Right of Commissioner to refund, notwithstanding advice of Secretary to the contrary. (*Sybrandt v. United States*, 19 Ct. Cls., 461; 30 Int. Rev. Rec., 135.)

Procedure for claims for refund and abatement. (T. D. 2654.)

Procedure as to claims relating to taxes on distilled spirits, fermented liquors and wines. (T. D. 2926.)

Reopening claims.—Reopening rejected claims for refunding. (14 Op. Atty. Gen., 275; 18 Int. Rev. Rec., 28.)

The Commissioner is not precluded from allowing a claim for refund, because a former Commissioner has rejected a claim for abatement. (IX Comp. Dec., 354.)

The Commissioner is authorized to reconsider and allow a claim which he had, through error of law, previously rejected. (XI Comp. Dec., 676.)

Reconsideration of claim for taxes after judgment. (25 Op. Atty. Gen., 605.)

Any public officer in an executive department may correct his own errors and open, reconsider, or reverse any case decided by himself. (*Rollins and Presbrey v. United States*, 23 Ct. Cls., 106.)

Laches of officers.—United States not liable for unauthorized wrongs done by revenue officers. (*United States v. Cummings*; appeal from Court of Claims, 35 Int. Rev. Rec., 142; 130 U. S., 453; *Thierman & Frost v. United States*, 51 Ct. Cls., 35.)

The general principle is that the Government can not be held liable for unauthorized wrongs inflicted by officers, though occurring while they are engaged in the discharge of official duties. (*Joel Mann v. United States*, 32 Ct. Cls., 581; *Christie-Street Commission Co. v. United States*, 129 Fed., 506.)

Errors in assessment in favor of plaintiff in action against collector to recover taxes erroneously assessed and paid may also be corrected, the United States not being affected by any estoppel which might affect officer making assessment. (*New York Life Ins. Co. v. Anderson*, 257 Fed., 576.)

Informal claims.—An application for the refund of taxes, though informal or defective, may be regarded as a claim, so far at least as to be a foundation for an amendment. (14 Op. Atty. Gen., 615.)

Where a distiller in consequence of the destruction of the stamp is forced to affix a new one, the Commissioner, on proof of these facts, may direct the price of the second stamp, or rather the tax thus a second time exacted, to be refunded. (13 Op. Atty. Gen., 574.)

The Commissioner has no authority to refund to a surety on a distiller's bond who has paid a judgment recovered against him thereon the amount of such judgment, when the tax upon which this recovery was had was not illegally assessed, and the only claim for refund is founded on the allegation that the surety was not liable therefor on his bond. (*Seat v. United States*, 18 Ct. Cls., 458.)

Refund to a surety who paid the tax. (VII Comp. Dec., 361.)

Finality of decisions.—Where the Commissioner of Internal Revenue, in a case within the scope of his authority and jurisdiction, has ordered a refund, a court can not inquire as to the sufficiency of the evidence before him. (*Woolner v. United States*, 13 Ct. Cls., 355; 24 Int. Rev. Rec., 181.)

Neither the Comptroller of the Treasury nor any accounting officer has authority to review the Commissioner's decision. (*Bank of Greencastle v. United States*, 15 Ct. Cls., 225; 26 Int. Rev. Rec., 126.)

Decisions by the Commissioner of Internal Revenue, in cases of refunding taxes, are binding, and, in the absence of fraud or mistake in calculation, not subject to revision. (*Dugan v. United States*, 34 Ct. Cls., 458; T. D. 21285. See also *Davidson v. United States*, 21 Ct. Cls., 298; *Nixon v. United States*, 18 Ct. Cls., 448; 29 Int. Rev. Rec., 157; *Louisville v. United States*, 31 Ct. Cls., 1; *Edison, etc., Co. v. United States*, 38 Ct. Cls., 208.)

When a particular authority is confided to a public officer, to be exercised by him in his discretion upon an examination of facts of which he is made the judge, his decision upon the facts is, in the absence of any controlling provision of law, absolutely conclusive as to the existence of those facts. (*Allen v. Blunt*, Fed. Cas. No. 215; 3 Story, C. C., 745; cited with approval in *United States v. Wright*, 11 Wall., 648.)

An allowance by the Commissioner under this section of a claim for refund of taxes erroneously collected is conclusive as to the facts upon which the allowance is made, but not as to questions of law arising therein. (VI Comp. Dec., 259.)

Where the statute intrusts a public officer with a designated duty the exercise of his discretion in performing that duty can not be reviewed if he acts within the general scope of his authority. (*Plummer v. United States*, 24 Ct. Cls., 517.)

The decision of the Commissioner not final when based on the construction of a statute. (*The American West Indies Trading Co. v. United States*, 45 Ct. Cls., 488.)

In any assessment or collection growing out of the re-negating of spirits an appeal lies to the Commissioner. The Commissioner's functions are judicial and his decision final. (*Corning & Co. v. United States*, 34 Ct. Cls., 271.)

Judgments against collectors.—Under section 3220 the Commissioner is authorized to pay to the plaintiff the amount of a judgment recovered against a collector of internal revenue for damages for a seizure of property for an alleged violation of the internal-revenue laws, and is not restricted to the payment of such amount to the collector. Judgment may be paid without certificate of probable cause. (*United States v. Frerichs*, 124 U. S., 315; 34 Int. Rev. Rec., 39.)

Accounts for judgments against collectors, appropriation necessary for payment. (VII Comp. Dec., 471.)

A judgment against a collector may be paid to the claimant or to the collector. (34 Int. Rev. Rec., 39.)

Regulation relative to transmitting claims for refund to Secretary. (*Dupasseur v. United States*, 19 Ct. Cls., 1.)

As to suits to enforce allowances. (*Boehm v. United States*, 21 Ct. Cls., 290.)

Various acts of Congress relative to refund commented upon. (*White v. Arthur*, 10 Fed., 80.)

Revenue officers forbidden to furnish unauthorized certificates in support of claims. (T. D. 2443.)

Circular No. 174, dated October 30, 1877, relative to the taking of additional testimony in support of claims for abatement or refund of taxes.

The filing of a claim for the abatement of a tax alleged to have been erroneously assessed does not operate as a suspension of the collection of the tax. (Regulations No. 14, revised, p. 16.)

Attorneys duly registered in the Treasury Department, and filing powers of attorney, will be recognized in the prosecution of refunding claims. (T. D. 159.)

Taxes due can not be recovered back on account of irregularity in collection. (*Schafer v. Craft*, 144 Fed., 907.)

Refund of portion of amount accepted in compromise in certain income-tax cases. (T. D. 2175.)

An act directing a refund and appropriating a specific sum is conclusive on accounting officers. (*United States v. Louisville*, 160 U. S., 249; 31 Ct. Cls., 1.)

Procedure under which collectors are authorized to refund excessive payments of internal-revenue tax. (T. D. 2688.)

Taxes on spirits
accidentally de-
stroyed.

SEC. 3221. [*Amended by sec. 6, act of March 1, 1879 (20 Stat., 327).*] The Secretary of the Treasury, upon the production to him of satisfactory proof of the actual destruction by accidental fire or other casualty, and without any fraud, collusion, or negligence of the owner thereof, of any distilled spirits, while the same remained in the custody of any officer of internal revenue in any distillery warehouse, or bonded warehouse of the United States and before the tax thereon has been paid, may abate the amount of internal taxes accruing thereon, and may cancel any warehouse bond, or enter satisfaction thereon, in whole or in part, as the case may be. And if such taxes have been collected since the destruction of said spirits, the said Secretary shall refund the same to the owners thereof out of any moneys in the Treasury not otherwise appropriated. And when any distilled spirits are hereafter destroyed by accidental fire or other casualty, without any fraud, collusion, or negligence of the owner thereof, after the time when the same should have been drawn off by the gauger and placed in the distillery warehouse provided by law, no tax shall be collected on such spirits so destroyed, or if collected, it shall be refunded upon the production of satisfactory proof that the spirits were destroyed as herein specified.

This section provides allowance for loss by accidental fire or other unavoidable accident when the manufacture of spirits has been completed and they are destroyed before being drawn off and carried into the distillery warehouse and when the whisky is destroyed in the distillery warehouse.

Section 8, act of May 23, 1880 (p. 265), releases the distiller from the payment of tax upon spirits destroyed by accident while in the process of manufacture.

If the spirits are removed from a distillery warehouse to a manufacturer's warehouse, and are lost in the course of such removal, section 15, of the act of May 28, 1880, provides for remission of the tax. (p. 610.)

A similar provision is made where spirits are removed from a distillery warehouse for export. (Act December 20, 1879, p. 285.)

Spirits lost while in transit to a general bonded warehouse. (*Greenbrier Distillery Co. v. Johnson*, 88 Fed., 638.)

This section applicable to brandy stored in special bonded warehouses. (Sec. 5, act March 3, 1877, p. 691.)

Secretary Manning's construction of the law relative to abatement of tax on spirits, said to have been lost from packages in warehouse. (31 Int. Rev. Rec., 189.)

Allowance for loss in warehouse. (Circ. No. 625; sec. 50, act August 27, 1894, p. 244; act March 3, 1899, pp. 245, 246.)

Leakage not casualty. (Revised ruling of the department May 25, 1894, giving historical review of the laws; 40 Int. Rev. Rec., 173.)

The collapse of a barrel filled with whisky from the pressure of other barrels superimposed upon it is not a casualty within the meaning of the law. (Letter from Secretary of the Treasury to Commissioner Internal Revenue, July 24, 1894; 40 Int. Rev. Rec., 237.)

"Casualty" means an accident; an event not to be foreseen or guarded against. Excessive and unusual summer heat is not a casualty, neither are undiscovered worm holes in whisky barrels a casualty within the meaning of this section. (*Crystal Springs Distilling Co. v. Cox*, circuit court Kentucky, 1891; 47 Fed., 698; 37 Int. Rev. Rec., 328.) Decision affirmed, circuit court of appeals, 1892. (49 Fed., 555.)

Unavoidable casualty signifies events or accidents which human prudence, foresight, and sagacity can not prevent. (*Wells v. Casteels*, 3 Gray, 325.)

Proof required in cases of destruction of distilled spirits by incendiaries. (43 Int. Rev. Rec., 285.)

Denial of claim for refund of tax on spirits alleged to have been destroyed by incendiary fire while in warehouse; insufficient evidence. (Letter from Secretary of the Treasury, October 15, 1895; 42 Int. Rev. Rec., 49.)

Where spirits are withdrawn from warehouse tax paid and stamped, and afterwards destroyed by accident, the tax can not be refunded. (T. D. 18996.)

No provision authorizing relief when spirits are stolen from warehouse. (T. D. 19520.)

Distilled spirits seized by an internal-revenue officer and lost by his negligence, not lost through casualty, within section 3221. (*United States v. Sisk*, 176 Fed., 885.)

Can abate the tax on spirits which have been in bonded warehouse beyond bonded period. (18 Op. Atty. Gen., 379; 32 Int. Rev. Rec., 94.)

The destruction of spirits stored in distillery warehouses by fire while in the warehouse constituted a "removal." (48 Fed., 714, reversed; *United States v. Peace et al.*, 53 Fed. 969.) See *Insurance Companies v. Thompson*, 95 U. S. (5 Otto), 547; *Freeman v. United States*, 157 Fed., 195.)

If accounting officers refuse to allow a claim after the Secretary's decision in its favor, claimant can recover in Court of Claims. (*Hoffhelmer Bros. v. United States*, 20 Ct. Cls., 371.)

Liability of obligors on warehousing bonds to pay the tax on spirits destroyed in a distillery warehouse can be relieved only in the manner prescribed by the statute. (*Farrell v. United States*, 8 Biss., 259; 99 U. S. (9 Otto), 221; 25 Int. Rev. Rec., 83.)

The statute (sec. 3221) contemplates that the burden of proof shall be upon the applicant. (Opinion of Solicitor

of the Treasury. Letter to Secretary of the Treasury of October 21, 1885, in re claim of John G. Roach.)

A revocation of an order for abatement under section 3221, Revised Statutes, does not restore the previous liability of the obligors on the warehousing bond to pay the tax on the spirits claimed to have been destroyed. (*United States v. Alexander et al.*, 110 U. S., 325.)

Regulations and instructions governing the abatement of taxes on spirits destroyed by fire, or other casualty. Regulations No. 7, revised, and No. 14, revised.

This section applies to special taxes assessed and collected under laws regulating manufacture and sale of oleomargarine. (*Hastings v. Herold*, 184 Fed., 759.)

Retroactive effect of preceding section.

SEC. 3222. The preceding section shall take effect in all cases of loss or destruction of distilled spirits as aforesaid which have occurred since January one, eighteen hundred and sixty-eight.

This does not embrace the later addition made to section 3221 by act of Mar. 1, 1879, section 6, which by its own terms expressly relates only to spirits thereafter destroyed. (See latter portion of sec. 3221, p. 142.)

Section 5 of the act of June 7, 1906 (34 Stat., 215), page 344, extends the provisions of sections 3221 and 3223, R. S., as amended, to grape brandy withdrawn for use in the fortification of sweet wines, and which, prior to such use, is accidentally destroyed by fire or other casualty while stored in the fortifying room on the winery premises.

When tax on lost spirits is indemnified by insurance.

SEC. 3223. [*Amended by sec. 3, act of March 1, 1879 (20 Stat., 327).*] When the owners of distilled spirits in the cases provided for by the two preceding sections may be indemnified against such tax by a valid claim of insurance for a sum greater than the actual value of the distilled spirits before and without the tax being paid, the tax shall not be remitted to the extent of such insurance.

The liability for tax on bonded spirits is an insurable interest. (*Insurance Company v. Thompson et al.*, 95 U. S. (5 Otto), 547.)

An insurance policy upon whisky in bond, without reference to the Government tax, entitles the assured to include the tax in his recovery in case of loss, if the assured is liable for the tax. (*Hedger v. Union Insurance Co.*, 17 Fed., 498.)

In view of the foregoing statute and the decisions above cited, it is held, in cases where it is not expressly stipulated in the policies of insurance that the Government tax is not included in the insurance on the spirits, that the owner of the spirits is not entitled to any allowance, under section 3221, on so much of the tax as is equal to the valid insurance in excess of the actual value of spirits, exclusive of the tax.

Suits to restrain assessment or collection of taxes.

SEC. 3224. No suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court.

The constitutionality of a law can not be inquired into in an injunction suit. (*The Delaware Railroad Co. v. Prettyman*, 17 Int. Rev. Rec., 99.)

Allegations in a bill that an assessment is irregular and void do not constitute any ground for an injunction to restrain the collection of the assessment. (*Alkan v. Bean*, 23 Int. Rev. Rec., 351; 8 Biss., 83.)

The courts have persistently refused an injunction or other extraordinary process to lend aid to taxpayers in

attempts to defeat the collecting agents of the Government; the question of constitutionality of the law can be considered in a suit to recover the tax, but not in a proceeding to enjoin collection. (*Dodge v. Osborn*, 240 U. S., 118; T. D. 2301; *Louisiana v. McAdoo*, 234 U. S., 627; T. D. 34764; *Kohlhamer v. Smietanka*, 239 Fed., 408.)

A bill in equity will not lie to enjoin a collector of internal revenue from collecting a tax assessed by the Commissioner, although the tax is alleged in the bill to have been illegally assessed. (*Snyder v. Marks*, 109 U. S., 189; 29 Int. Rev. Rec., 403; *Moore v. Miller*, 5 App. Cas., D. C., 413; *Brown v. Foster*, 194 Fed. 855; T. D. 1760; *Strauss v. Abrast Realty Co.*, 200 Fed. 253; T. D. 1788.)

A collector can not be restrained from collecting an assessment by injunction. (*Pullan v. Kissinger*, 2 Abb. (U. S.), 94; 11 Int. Rev. Rec., 197; *Kensett v. Stivers*, 27 Int. Rev. Rec., 1; 18 Blatch., 397; 10 Fed., 517; *State Railroad Tax Cases*, 92 U. S. (2 Otto), 613; *Keely v. Sanders*, 99 U. S., 443; *Robbins v. Freeland*, collector, 14 Int. Rev. Rec., 28; *United States v. Hodson*, 14 Int. Rev. Rec., 100; *Roback v. Taylor* (1866), 4 Int. Rev. Rec., 170.)

Purely injunction bills can not be maintained to restrain the collection of taxes upon the sole ground of their unconstitutionality. (*Allen v. Pullman Palace Car Co.*, 139 U. S., 658.)

This section forbids issuance of injunction to restrain Commissioner from assessing taxes on sales of grain to memoranda of which no stamps were affixed; remedy is under section 3226. (*Calkins v. Smietanka*, 240 Fed. 138.)

A collector can not be enjoined from collecting a tax, but a suit to recover the money back when illegally collected is authorized. (*Armour v. Roberts*, 151 Fed., 846.)

It is contrary to every principle of equity jurisprudence that the collection of taxes on personal property should be stayed by injunction. (*Nye v. Washburn*, 125 Fed., 818.)

The courts will not interfere by mandamus with the executive officers of the Government in the exercise of their ordinary official duties. (*United States v. Black*, 128 U. S., 40.)

The court in this case followed an earlier decision of *Decatur v. Paulding* (14 Pet., 497), and made clear the distinction between the mere ministerial act of the executive officer, which may be controlled by the courts by mandamus, and an act in the performance of which an officer is vested with quasi-judicial discretion.

Mandamus to compel abrogation and cancellation of Treasury Decision 2309 refused. (*United States ex rel. Ashley v. Osborn*, T. D. 2489.)

Section 3224 forbids not only injunction but other forms of direct equitable relief. (*Gouge v. Hart*, 250 Fed., 802.)

In matters which require an executive officer to exercise judgment or discretion, no rule will issue for a mandamus. (*Carrick v. Lamar*, 116 U. S., 423.)

When mandamus may issue. (*Marbury v. Madison*, 1 Cranch (U. S.), 137; *United States v. Schurz*, 102 U. S. 378.)

A bill for a mandatory injunction, requiring a collector to accept an export bond for spirits in a bonded warehouse after the bonded period has expired, and allow their withdrawal for export without payment of the tax, is in effect a bill to restrain the collection of taxes, which the court is forbidden to entertain. (*Miles v. Johnson*, 59 Fed., 38; 40 Int. Rev. Rec., 10.)

A collector can not be restrained by injunction from making a seizure. (See under sec. 3163, p. 92.)

Suits to recover taxes collected under second assessment, burden of proof as to fraud, etc.

SEC. 3225. [Amended by sec. 1316 (b), act of February 24, 1919 (40 Stat., 1057).] When a second assessment is made in case of any list, statement, or return, which in the opinion of the collector or deputy collector was false or fraudulent, or contained any understatement or undervaluation, such assessment shall not be remitted, nor shall taxes collected under such assessment be refunded, or paid back, or recovered by any suit, unless it is proved that such list, statement, or return was not willfully false or fraudulent and did not contain any willful understatement or undervaluation.

(Bergdoll v. Pollock, 95 U. S., 337; Camp Bird, Ltd. v. Howbert, 249 Fed., 27; 248 U. S. 590; T. D. 2661, affirming T. D. 2306; Northwestern Mutual Life Insurance Co. v. Fink, 248 Fed., 508.)

Suits for recovery of taxes wrongfully collected.

SEC. 3226. No suit shall be maintained in any court for the recovery of any internal tax alleged to have been erroneously or illegally assessed or collected, or of any penalty claimed to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, until appeals shall have been duly made to the Commissioner of Internal Revenue, according to the provisions of law in that regard, and the regulations of the Secretary of the Treasury established in pursuance thereof, and a decision of the Commissioner has been had therein: *Provided*, That if such decision is delayed more than six months from the date of such appeal, then the said suit may be brought, without first having a decision of the Commissioner at any time within the period limited in the next section.

In *Hicks v. James' Administratrix*, 48 Fed., 542, the plaintiff brought suit to recover certain taxes which it was claimed had been illegally exacted, and the question as to whether there had been a proper appeal made to the Commissioner before the suit was instituted was raised, and the difference between an appeal taken under Forms 46 and 47 clearly shown. (*James' Administratrix v. Hicks*, 110 U. S., 272; *Hastings v. Herold*, 184 Fed., 759.)

In extending jurisdiction to United States courts by the act of March 3, 1887, the provisions of sections 3226 and 3227, Revised Statutes, were not abrogated. (*Christie-Street Commission Co. v. United States*, 126 Fed., 991; affirmed 129 Fed., 506.)

A suit against the collector for the recovery of taxes is in reality a suit against the United States upon an implied contract to pay that which has been unlawfully taken. (*Armour v. Roberts*, 151 Fed., 846; contra, *Roberts v. Lowe*, T. D. 2394.)

Suit should be brought against the collector only who collected the taxes. (*Philadelphia, Harrisburg & Pittsburgh R. R. Co. v. Lederer*, 242 Fed., 492; T. D. 2507.)

As the right to sue the United States through its collectors, to recover taxes alleged to have been illegally collected, is only a remedy given by statute, no such right exists unless the conditions prescribed by sections 3226, 3227 are strictly complied with. (*Commissioners of the Sinking Fund of Louisville v. Buckner*, 48 Fed., 533; *Schmitt v. Trowbridge*, collector, 24 Int. Rev. Rec., 381.)

The common-law right to sue a revenue officer for the recovery of taxes illegally exacted has been superseded by statute, and the remedy accorded thereby is deemed to be

exclusive. (*Snyder v. Marks*, 109 U. S., 189; *Schoenfeld v. Hendricks*, 152 U. S., 691.)

In the absence of a statutory rule to the contrary, the defense of a statute of limitations, which is not raised either in pleading, or on the trial, or before judgment, can not be availed of. (*Retzer v. Wood*, collector, 109 U. S., 185.)

A promise on the part of a collector of taxes to repay a tax illegally collected and paid only under protest can not be implied where statute makes it the duty of such officer to pay into the public Treasury without any deduction on account of claims of any description the gross amount that he received.

The prohibition that no suit shall be maintained in any court to recover a tax illegally assessed, except on certain conditions, operates on all suits brought subsequently to the time fixed by the act for it to take effect, and on suits brought in State courts as well as in Federal. (*Collector v. Hubbard*, 12 Wall., 1.)

Upon an application by the United States for an order upon a receiver to pay an assessment, the receiver may show that the assessment was erroneous or illegal, without regard to the lapse of time or to whether there has been an appeal to the Commissioner of Internal Revenue. (*United States v. Nebraska Distilling Co.*, 80 Fed., 285.)

Condition precedent to suit under this section not applicable to inheritance taxes imposed by act of June 13, 1898, if taxpayer has complied with section 3 of the act of June 13, 1898, and section 2 of the act of July 27, 1912, and presented claim for refund. (*Rand v. United States*, 249 U. S. 503; T. D. 2886.)

This section applicable to collection and enforcement of tax on oleomargarine under act August 2, 1886; filing claim for abatement renders filing claim for refund unnecessary. (*Weaver v. Ewers*, 195 Fed., 247.)

This section applies to special taxes assessed and collected under laws regulating manufacture and sale of oleomargarine. (*Hastings v. Herold*, 184 Fed., 759.)

Person alleged to have been wrongfully assessed for oleomargarine taxes, applying pursuant to Form 47 for abatement of assessment, but making no application pursuant to Form 46 for return of moneys alleged to have been paid as such taxes under a protest, abatement application having been denied, suit brought against collector to recover such taxes was premature. (*Hastings v. Herold*, 184 Fed., 759.)

SEC. 3227. No suit or proceeding for the recovery of any internal tax alleged to have been erroneously or illegally assessed or collected, or of any penalty alleged to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, shall be maintained in any court unless the same is brought within two years next after the cause of action accrued: *Provided*, That actions for such claims which accrued prior to June six, eighteen hundred and seventy-two, may be brought within one year from said date; and that where any such claim was pending before the Commissioner, as provided in the preceding section, an action thereon may be brought within one year after such decision and not after. But no right of action which was already barred by any statute on the said date shall be revived by this section.

Limitation as to suits for recovery of taxes wrongfully collected.

The words "cause of action" mean the right of action. (*Wright v. Blakeslee*, 101 U. S., 174; 26 Int. Rev. Rec., 179.)

As to claim pending before Commissioner June 6, 1872. (*James v. Hicks*, 110 U. S., 272, affirming *Hicks v. James*, 48 Fed., 542.)

Jurisdiction. (*City of Philadelphia v. Collector*, 5 Wall., 720.)

State statute of limitations as affected by the Federal statute of limitations. (*Braun v. Sauerwein*, 10 Wall., 218.)

A person can not recover taxes paid which were in fact due, even though the manner of their assessment and collection was unauthorized. (*Schafer v. Craft*, 144 Fed. 907.)

Suits must be brought within two years after the cause of action accrued. (*Cheatham v. United States*, 92 U. S., 85; 22 Int. Rev. Rec., 30; *Kings County Savings Institution v. Blair*, 116 U. S., 200; 32 Int. Rev. Rec., 30; Commissioners of the Sinking Fund of Louisville *v. Buckner*, 48 Fed., 533; *Coblens v. Abel*, Woolw. 293, Fed. Cas. No. 2926; *Christie-Street Commission Co. v. United States*, C. C. A. 136 Fed., 326, affirming 129 Fed., 506; *Farrell v. United States*, 167 Fed., 639.)

The cause of action accrues at the expiration of six months from the time of appeal by claim to the Commissioner, or at time of rejection of claim, if such action is taken before the expiration of six months, and the right of action is barred in two years thereafter. (*Schwartzchild & Sulzberger v. Rucker*, 143 Fed., 656; T. D. 974.)

The two years commences to run from the decision of the Commissioner on appeal; the claimant has the option to bring suit after six months from date of appeal in case decision is delayed, or wait until the Commissioner has rejected the claim and bring suit within two years from that time. (*Merck v. Treat*, 174 Fed., 388; T. D. 1405.)

The cause of action accrues on rejection of claim. (*State Line & Sullivan R. R. Co. v. Davis*, 228 Fed., 246.)

Suit for recovery of taxes is against the collector as an officer, not individually. (*Public Service Ry. Co. v. Herold*, 219 Fed. 301; 229 Fed., 902.)

No officer of the Government is authorized to waive the statute of limitations imposed in favor of the Government. (*Christie-Street Commission Co. v. United States*, 129 Fed., 506.)

Claims for refunding, limitation.

SEC. 3228. All claims for the refunding of any internal tax alleged to have been erroneously or illegally assessed or collected, or of any penalty alleged to have been collected without authority, or of any sum alleged to have been excessive or in any manner wrongfully collected, must be presented to the Commissioner of Internal Revenue within two years next after the cause of action accrued: *Provided*, That claims which accrued prior to June six, eighteen hundred and seventy-two, may be presented to the Commissioner at any time within one year from said date. But nothing in this section shall be construed to revive any right of action which was already barred by any statute on that date.

Informal application regarded as a claim within the meaning of this section. (14 Op. Atty. Gen., 615.)

When this section does not apply. This limitation does not apply to claims for the redemption of stamps. (15 Op. Atty. Gen., 426.)

This limitation does not apply to claims under section 3221, page 142.

Section 3228 does not apply to claims for refund of legacy taxes under section 3, act of June 27, 1902. (13 Comp. Dec., 707.)

The act above mentioned is not a part of the revenue system. No protest required. (*United States v. Shipley*, 197 Fed., 265.)

Act removing bar in case of legacy taxes and Spanish War revenue taxes. (Act July 27, 1912, 37 Stat., 240.)

The two years' limitation is applicable in cases in the Court of Claims, and not the six years' limitation of Sec. 156, Judicial Code. (*Ft. Pitt Gas Co. v. United States*, 49 Ct. Clms., 224; T. D. 1979.)

See section 14, act of September 8, 1916, Appendix, p. 814, as to removing bar of two years' limitations as to certain claims for refund under section 3228, R. S. (23 Compt. Dec., 299, 315.)

SECTION 1. [Act of February 28, 1916 (39 Stat., 14, 20).] The Commissioner of Internal Revenue is authorized to reopen and allow claims for taxes for the recovery of which suits are pending and which would be allowable under the decision of the Supreme Court in the case of *McCoach*, collector, against *Minehill and Schuylkill Haven Railroad Company*; and there is hereby appropriated for the payment of such claims a total sum not to exceed \$300,000, this appropriation to be available for the payment of such of the aforesaid claims as are not payable out of moneys heretofore appropriated and available during the fiscal year ending June thirtieth, nineteen hundred and sixteen, for the payment of claims.

Condition precedent to suit under this section not applicable to inheritance taxes imposed by act of June 13, 1898, if taxpayer has complied with section 3 of the act of June 13, 1898, and section 2 of the act of July 27, 1912, and presented claim for refund. (*Rand v. United States*, 249 U. S. 503; T. D. 2886.)

SEC. 3229. The Commissioner of Internal Revenue, with the advice and consent of the Secretary of the Treasury, may compromise any civil or criminal case arising under the internal-revenue laws instead of commencing suit thereon; and, with the advice and consent of the said Secretary and the recommendation of the Attorney-General, he may compromise any such case after a suit thereon has been commenced. Whenever a compromise is made in any case there shall be placed on file in the office of the Commissioner the opinion of the Solicitor of Internal Revenue, or of the officer acting as such, with his reasons therefor, with a statement of the amount of tax assessed, the amount of additional tax or penalty imposed by law in consequence of the neglect or delinquency of the person against whom the tax is assessed, and the amount actually paid in accordance with the terms of the compromise.

Compromises.

Compromises after judgment, remissions, and pardons. (See sec. 3469, p. 656.)

Officers compromising offenses except as authorized by law; penalty. (Sec. 3169, p. 98, and sec. 3170, p. 101.)

District attorney or marshal compromising cases illegally; penalty. (Sec. 3170, p. 101.)

Opinion of the Attorney General as to the limitation of the power to compromise vested in the Secretary of the Treasury under sections 3229 and 3469, pages 149, 656. (17 Op. Atty. Gen., 213; 27 Int. Rev. Rec., 334.)

Compromises; course of proceedings indicated. The functions of the Secretary of the Treasury and the Attorney General are advisory. (12 Op. Atty. Gen., 472; 8 Int. Rev. Rec., 86.)

Power to compromise ceases as soon as judgment is rendered. (13 Op. Atty. Gen., 479.)

No power to compromise proceedings against officers. (14 Op. Atty. Gen., 8, 43.)

The right to compromise is understood to embrace the criminal as well as the civil liability of the defendant. (18 Op. Atty. Gen., 480.)

Can not compromise taxes legally due from a solvent taxpayer. (T. D. 18854; 16 Op. Atty. Gen., 240; 25 Int. Rev. Rec., 14. United States v. Roelle et al., 24 Int. Rev. Rec., 332; Fed. Cas. No. 16186.)

Commissioner has power to compromise a tax after assessment and before payment. Question as to compromise of an admitted valid tax on a solvent taxpayer not involved. (30 Op. Atty. Gen., 329.)

Power to remit tax. (Dorshelmer v. United States, 7 Wall., 166; 10 Int. Rev. Rec., 131.)

Compromise of liability of obligors on an export bond. (13 Op. Atty. Gen., 115.)

Canadian bank notes paid out by banks in the United States, tax on, compromise. (21 Op. Atty. Gen., 557.)

No power to compromise a suit brought against a collector of internal revenue for the recovery of tax claimed to have been illegally collected. (Coca Cola Co. v. Rucker; 28 Op. Atty. Gen., 507.)

Money deposited for compromise can not be held or set off against tax due. (Boughton v. United States, 12 Ct. Cls., 330; 13 Id., 284.)

When party complies with terms of compromise it is conclusive. (Sweeny v. United States, 17 Wall., 75; United States v. Child & Co., 12 Id., 232; Mason v. United States, 17 Id., 67.)

Discontinuance on payment of costs a compromise. (Op. Atty. Gen. (Hoar), 11 Int. Rev. Rec., 98; 12 Op. Atty. Gen. (Evarts), 536.)

Commissioner may direct an unconditional dismissal of a suit without recommendation of Attorney General. (12 Op. Atty. Gen., 553.)

The Attorney General exercises superintendence and direction over United States attorneys and general supervision over proceedings instituted for the benefit of the United States. He may absolutely dismiss or discontinue suits in which the Government is interested; a fortiori, he may terminate the same upon terms, at any stage, by way of compromise or settlement. (22 Op. Atty. Gen., 491; T. D. 21270.)

An agreement made with the United States District Attorney in the nature of a compromise is not valid unless with the concurrence of the officers above named. (United States v. Quantity of Distilled Spirits, 4 Ben., 849; Fed. Cas. No. 16099.)

There is no authority for a district attorney or collector to compromise, adjust, or settle any charge or complaint for any violation, or alleged violation, of the internal-revenue law. (T. D. 845.)

United States Commissioners have no authority to settle cases. (T. D. 1216.)

A compromise operates for the protection of the offender against subsequent proceedings as fully as a former conviction or acquittal, and is a bar to a suit on a bond to recover penalties based upon the same offense. (*United States v. Chouteau*, 102 U. S. 803; 27 Int. Rev. Rec., 5.)

The officers of the Treasury Department are authorized to compromise a case involving a violation of the oleomargarine statutes upon terms which, in their judgment, are just and reasonable. The initiative of action is with the Commissioner. (26 Op. Atty. Gen., 282.)

Suits against illicit distillers may not be nolle without permission of Attorney General. (Sec. 3230, R. S.)

Commissioner may instruct United States attorney to prosecute or abstain. (Secs. 838, p. 659; 3214, p. 134.)

Instructions relative to offers in compromise. (T. D. 18854; T. D. 20285.)

Compromises induced by threats and duress. (T. D. 206; Int. Rev. Clr. 579.)

Five-dollar offers. (T. D. 496.)

Offers in compromise should include payment of costs. (T. D. 642.)

Deposit of amount offered. (T. D. 1253.)

Favorable consideration will not be given to offers in compromise where the violation of law is deliberate and with intent to defraud and the evidence is sufficient to convict. (T. D. 1795.)

Compromises in substitution cases. (T. D. 1872; T. D. 2007.) In cases of corporations failing to make returns. (29 Opin. Atty. Gen., 217.) In cases of failure to make return of income tax. (T. Ds. 2015, 2193, 2311, 2349.)

Only remedy of corporation after unfavorable verdict (other than appeal) is application to the Commissioner for compromise authorized by this section. (*United States v. Acorn Roofing Co.*, 204 Fed., 157.)

Commissioner has authority to compromise tax liability case before proceeding to distraint and sale. (Op. Atty. Gen., January 30, 1915.)

One failing to file income tax return can not be successfully prosecuted, where collector of internal revenue's offer to compromise on payment of tax and penalty was accepted. (*Rau v. United States*, 260 Fed., 131.)

Where internal revenue officers, after defendant admitted he had not filed income tax return, accepted both tax and penalty, informing defendant that such payment would end matter and there would be no indictment, such acceptance and statement were a compromise and constituted bar to prosecution. (Id.)

Fact that sum paid by defendant was retained by the Treasury is evidence that money was received in compromise of case. (Id.)

SEC. 3230. No discontinuance or nolle prosequi of any prosecution under section three thousand two hundred and fifty-seven shall be allowed without the permission in writing of the Secretary of the Treasury and the Attorney General. Discontinu-
ances of prosecu-
tions.

SEC. 3231. It shall be lawful for any court in which any suit or criminal proceeding arising under the internal-revenue laws may be pending, to continue the same at any stage thereof, for good cause shown on motion by the district attorney. Continuance of
internal - revenue
cases.

CHAPTER THREE. SPECIAL TAXES.

- Sec.
3232. Occupation not to be carried on until tax is paid.
3233. Business to be registered.
Joint resolution, May 8, 1876.
Selling on passenger railroad trains or vessels.
3234. Persons in partnership at same place liable for only one tax.
3235. Payment of one special tax not to cover several places of business.
3236. When more than one pursuit is carried on in same place by same person at same time.
- 3237 (amended). When special tax to be due, how reckoned.
3238. Stamps for special taxes.
3239. Special-tax stamp to be exhibited in place of business.
- 3240 (amended). List of special-tax payers to be exhibited in collector's office.
3241. Death or removal after paying tax; business carried on without additional tax.
3242. Carrying on business without payment of special tax; penalties.
16. Act February 8, 1875. Same.
4. Act August 2, 1886.
Same as to oleomargarine.
4. Act May 9, 1902.
Same as to process, renovated, or adulterated butter.
3243. Payment of special tax not to authorize violation of State laws nor prohibit State taxation.
- 3244 (amended). Special taxes imposed on whom:
1st. Brewers.
2d. Manufacturers of stills.
3d. Rectifiers.
4th. Retail liquor dealers.
Wholesale liquor dealers.
5th. Retail dealers in malt liquors.
Wholesale dealers in malt liquors.
3. Act of August 2, 1886, as amended by section 2, act of May 9, 1902:
Manufacturers of oleomargarine.
Wholesale dealers in oleomargarine.
Retail dealers in oleomargarine.

- Sec.
4. Act of May 9, 1902:
Manufacturers of process or renovated butter.
Manufacturers of adulterated butter.
Wholesale dealers in adulterated butter.
Retail dealers in adulterated butter.
3. Act of June 6, 1896:
Manufacturers of filled cheese.
Wholesale dealers in filled cheese. Retail dealers in filled cheese.
36. Act of June 13, 1898:
Manufacturers, packers, and repackers of mixed flour.
- 3246 (amended). Special tax not to apply to vintners or apothecaries in certain cases.
1000. Act of February 24, 1919:
Capital stock tax.
1001. (Same.)
Brokers.
Pawnbrokers.
Ship brokers.
Customhouse brokers.
Theaters, museums, and concert halls.
Circuses.
Public exhibitions and shows.
Bowling alleys and billiard rooms.
Shooting galleries.
Riding academies.
Operating or renting passenger automobiles.
Brewers, distillers, etc.
1002. (Same.)
Tobacco, cigar, and cigarette manufacturers.
1003. (Same.)
Use of yachts, pleasure boats, etc.
1004. (Same.)
Receipts; credit of tax paid.
1005. (Same.)
Penalty.
- 1006-1009. (Same.)
Selling, compounding, etc., of opium, etc.
- 1, 26, 27. Act of February 14, 1917.
Sale of intoxicating liquors in Alaska.
12. Act of March 3, 1917. Sale of intoxicating liquors in District of Columbia.

Occupation not
to be carried on
until tax is paid.

SEC. 3232. No person shall be engaged in or carry on any trade or business hereinafter mentioned until he has paid a special tax therefor in the manner hereinafter provided.

See section 53, act of October 1, 1890, amending section 3237, Revised Statutes, modifying the above.

For instructions, rulings and decisions applicable to special taxes, see Regulations No. 1, revised.

It was held in License Tax Cases (5 Wall., 462, 6 Int. Rev. Rec., 36) that the provisions of the act of Congress of June 30, 1864, "to provide internal revenue to support the Government," etc. (13 Stat., 223), and the amendatory acts requiring licenses for certain kinds of business and imposing penalties for not taking out and paying for them, were not contrary to the Constitution or to public policy, and that the provisions of the act of July 13, 1866, "to reduce internal taxation," etc. (14 Stat., 98), for the imposing of special taxes, in lieu of requiring payment for licenses, removed whatever ambiguity existed in the previous laws, and were in harmony with the Constitution and public policy.

Returns to be made (Form 11). (Sec. 3173, p. 104.)

For failure to make sworn return within time prescribed, without excuse of "sickness or absence," the Commissioner of Internal Revenue is required to add 25 per centum to the special tax. (Sec. 3176, p. 108.)

Prosecutions not to be commenced (except in cases of peddlers of liquors) against special-tax payers who make return and pay the tax at any time before expiration of the calendar month in which liability began. (T. D. 18946.)

Except in the case of persons engaging in business as liquor dealers in localities where such business is prohibited by local law. In such cases prosecution to be instituted unless the special tax is paid and the stamp posted before business is begun. (T. D. 16065.)

Where a person, after his arrest for failure to pay special tax as required by law, proffers to the collector the amount of the tax and 50 per cent penalty, upon his signing and swearing to return (Form 11), the collector should receive the money proffered. This does not relieve such person from his criminal liability. (T. D. 21850.)

A verdict in favor of defendant in a criminal action does not estop the United States from proving the special-tax liability in a civil action. (United States v. Schneider, 35 Fed., 107.)

Department has no authority to refuse to issue special tax stamp to liquor dealer in prohibition territory, which stamp is not a license, but merely a receipt for the tax. (T. D. 1826.)

Trade or business to be registered.

SEC. 3233. Every person engaged in any trade or business on which a special tax is imposed by law shall register with the collector of the district his name or style, place of residence, trade or business, and the place where such trade or business is to be carried on. In case of a firm or company, the names of the several persons constituting the same, and their places of residence, shall be so registered.

Special-tax stamps may be issued for certain kinds of business on passenger railroad trains or vessels.

Joint resolution May 8, 1876 (19 Stat., 213). That nothing contained in chapter three of title thirty-five of the Revised Statutes shall prevent the issue, under such regulations as the Commissioner of Internal Revenue may prescribe, of special-tax stamps to persons carrying on

the business of retail dealers in liquors, retail dealers in malt liquors, or dealers in tobacco, upon passenger railroad trains or upon steamboats or other vessels engaged in the business of carrying passengers.

The special-tax stamps issued for the retailing of wine and liquor on buffet cars attached to passenger railway trains are to be made in general terms for such cars in "the United States," in view of the impracticability of repeated transfers of such stamps in the various districts and States through which the train passes. (T. D. 21318.) Such stamp when issued to steamboats or other vessels carrying passengers or to railroad passenger trains does not authorize sales in prohibition territory. (T. D. 1477.)

Retailing liquors on small boats. (T. D. 1007.)

SEC. 3234. Any number of persons doing business in copartnership at any one place shall be required to pay but one special tax.

Persons in partnership at same place liable for only one tax.

United States v. Glab, 99 U. S., 225; 25 Int. Rev. Rec., 84. (See sec. 3241.)

The firm name is the only name that is necessary in a special-tax stamp issued to a partnership. (T. D. 1008.)

SEC. 3235. The payment of the special tax imposed shall not exempt from an additional special tax the person carrying on a trade or business in any other place than that stated in the collector's register; but nothing herein contained shall require a special tax for the storage of goods, wares, or merchandise in other places than the place of business, nor, except as hereinafter provided, for the sale by manufacturers or producers of their own goods, wares, and merchandise, at the place of production or manufacture, and at their principal office or place of business, provided no goods, wares, or merchandise shall be kept except as samples at said office or place of business.

Payment of one special tax not to cover several places of business.

Where beer is delivered to customers from a storage house, that house is held to be a place of sale for which special tax is required to be paid, unless there has, in every instance, been prior constructive delivery at a regular place of business elsewhere. (T. D. 18999.)

Where warehouses for storage of malt liquors are merely places of storage and not places where customers leave their orders, special tax is not required to be paid therefor, nor a special-tax stamp required to be posted up therein. (T. D. 21619.)

Goods are offered for sale at the place where they are kept for sale, and where a sale may be effected. They are not offered for sale elsewhere by sending abroad an agent with samples or by establishing an office for the purpose of taking orders. (United States v. Chevallier, 107 Fed., 434, affirming 102 Fed., 125.)

But a wholesale liquor dealer at one point permitting actual delivery from warehouse at another point without prior constructive delivery at place where special-tax stamp is held is liable for special tax at the place of delivery. (De Bary v. Dunne, 172 Fed., 940; T. D. 1550.)

SEC. 3236. Whenever more than one of the pursuits or occupations hereinafter described are carried on in the same place by the same person at the same time, except

When more than one pursuit is carried on in same place by same person at same time.

as hereinafter provided, the tax shall be paid for each according to the rates severally prescribed.

When special
tax to be due.

SEC. 3237. [*Amended by sec. 53, act of October 1, 1890 (26 Stat., 567).*] That all special taxes shall become due on the first day of July, eighteen hundred and ninety-one, and on the first day of July in each year thereafter, or on commencing any trade or business on which such tax is imposed. In the former case the tax shall be reckoned for one year; and in the latter case it shall be reckoned proportionately, from the first day of the month in which the liability to a special tax commenced to the first day of July following. * * *

Returns.

And it shall be the duty of special tax payers to render their returns to the deputy collector at such times within the calendar month in which the special tax liability commenced as shall enable him to receive such returns, duly signed and verified, not later than the last day of the month, except in cases of sickness or absence, as provided for in section three thousand one hundred and seventy-six of the Revised Statutes.

This section is amendatory of sections 3173 (p. 104), 3176 (p. 108). It also repeats the proviso to section 3 of the act of August 2, 1886, relative to the special tax of manufacturers of oleomargarine commencing business subsequent to the 30th day of June in any year.

Special-tax payer, even though he makes sworn return within the calendar month of his liability, is liable to criminal prosecution if he fails to pay the tax within that month and to post the stamp in his place of business. (T. D. 20230.)

Instructions relative to returns. (T. D. 1782.)

Stamps for special
taxes.

SEC. 3238. All special taxes imposed by law, including the tax on stills or worms, shall be paid by stamps denoting the tax, and the Commissioner of Internal Revenue is required to procure appropriate stamps for the payment of such taxes; and the provisions of sections thirty-three hundred and twelve and thirty-four hundred and forty-six, and all other provisions of law relating to the preparation and issue of stamps for distilled spirits, fermented liquors, tobacco, and cigars, shall, so far as applicable, extend to and include such stamps for special taxes; and the Commissioner of Internal Revenue shall have authority to make all needful regulations relative thereto.

Act Feb. 18,
1875 (18 Stat.,
816).

Section 3312 as to distilled spirits, page 268.

Section 3446 as amended, page 589.

The act of December 24, 1872, (17 Stat., 401), first required special taxes to be paid by stamps.

Collectors prohibited from issuing receipts in lieu of stamps (Sec. 3183, p. 115). From issuing stamps before payment. (Sec. 1, act of March 1, 1879, p. 100).

Receipt of partial payments for stamps prohibited. (T. D. 1457.)

Unlawful issue of receipts for moneys received in payment of special taxes. (Cir. 595, T. D. 297; T. D. 2341.)

All persons liable to pay a special tax who failed to pay the same prior to or during the calendar months in which

liability thereto occurred should be reported on Form 23, with date of receipt of Form 11. (Regulations concerning assessments. Regulations No. 1, revised.)

Stamp not to be issued until Form 11 and the money have been received. (28 Int. Rev. Rec., 37. See T. D. 1560.)

The special-tax stamp is not a license, but merely a receipt for the tax. It puts the United States under no obligation whatever to the holder beyond assuring him against prosecution under the special-tax laws. (License Tax Cases, 5 Wall., 462; 6 Int. Rev. Rec., 86; T. D. 1484.)

Taxes must be uniform. No authority to refuse to issue the stamp, which is not a license but merely receipt for the tax. (T. D. 1826.)

Law of State of North Dakota requiring registration and publication of special tax stamp as liquor dealer unconstitutional. (North Dakota v. Hanson, 215 U. S., 515.)

The particular place of business, by street and number, to be designated in the stamp. (T. D. 18912.)

SEC. 3239. Every person engaged in any business, avocation, or employment, who is thereby made liable to a special tax shall place and keep conspicuously in his establishment or place of business all stamps denoting the payment of said special tax; and any person who shall, through negligence, fail to so place and keep said stamps, shall be liable to a penalty equal to the special tax for which his business rendered him liable, and the costs of prosecution; but in no case shall said penalty be less than ten dollars. And where the failure to comply with the foregoing provision of law shall be through willful neglect or refusal, then the penalty shall be double the amount above prescribed:

Provided, That nothing in this section shall in any way affect the liability of any person for exercising or carrying on any trade, business, or profession, or doing any act for the exercising, carrying on, or doing of which a special tax is imposed by law, without the payment thereof.

The words "except tobacco peddlers" in third line omitted, as under existing law they are not required to pay a special tax.

Posting special-tax stamp. (Cir. letter, September 26, 1898; T. D. 20094.)

SEC. 3240. [Amended by act of June 21, 1906 (34 Stat., 387).] Each collector of internal revenue shall, under regulations of the Commissioner of Internal Revenue, place and keep conspicuously in his office, for public inspection, an alphabetical list of the names of all persons who shall have paid special taxes within his district, and shall state thereon the time, place, and business for which such special taxes have been paid, and upon application of any prosecuting officer of any State, county, or municipality he shall furnish a certified copy thereof, as of a public record, for which a fee of one dollar for each one

Special-tax stamp to be conspicuously placed and kept in place of business. Act 27 Feb., 1877 (19 Stat., 240). Verbal error corrected.

List of special-tax payers to be exhibited in collector's office.

hundred words or fraction thereof in the copy or copies so requested may be charged.

The names in this list should be the true names and not the fictitious ones under which parties may elect to do business. (36 Int. Rev. Rec., 14.)

Production of records of internal-revenue offices, or copies thereof except of Record 10 as above provided, or divulging information secured in an official capacity, for use in trial of persons indicted for violating State laws is forbidden. (T. D. 19245; 34 Int. Rev. Rec., 261; In re Weeks (Vt.), 82 Fed., 730; In re Comingore; T. D. 21534; 96 Fed. 552; Boske v. Comingore, 177 U. S., 459; T. D. 104; In re Lamberton, 124 Fed., 446; T. D. 689; Stegall v. Thurman, 175 Fed., 813; T. D. 1616.)

Regulations prohibiting the giving out by collectors of records in their offices, or copies thereof, for purposes not contemplated by the internal-revenue laws. (Regulations No. 12, revised, sec. 3167, p. 96; sec. 882, Appendix, p. 644.)

Information (departmental), how furnished. (Dept. Cir. No. 69, July 5, 1906. Dept. Rule IX, p. 645.)

While all persons are entitled to inspect Record No. 10 in the collector's office at reasonable and proper times, and are not prohibited from copying the names and addresses of special-tax payers, yet no person is to be permitted to monopolize the book to the extent of interfering with the collector's use of it or to the exclusion of other persons. (T. D. 19225.)

Not necessary to secure special permission to furnish copies of record 10 to prosecuting officers. (T. D. 1619.)

Collectors may furnish copies of portion of record. How figures are counted in estimating costs. (T. D. 1036.)

The regulations prohibiting collectors from sending out their records, or making and furnishing copies thereof, do not authorize them to prevent the public inspection of Record No. 10 in their offices. (T. D. 19332.)

Scope of act of June 21, 1906. (T. D. 1050; T. D. 1164.)

Death or removal after paying tax; business carried on without additional tax.

SEC. 3241. When any person who has paid the special tax for any trade or business dies, his wife or child, or executors or administrators or other legal representatives, may occupy the house or premises, and in like manner carry on, for the residue of the term for which the tax is paid, the same trade or business as the deceased before carried on, in the same house, and upon the same premises, without the payment of any additional tax. And when any person removes from the house or premises for which any trade or business was taxed to any other place, he may carry on the trade or business specified in the collector's register at the place to which he removes, without the payment of any additional tax:

Provided, That all cases of death, change, or removal, as aforesaid, with the name of the successor to any person deceased, or of the person making such change or removal, shall be registered with the collector, under regulations to be prescribed by the Commissioner of Internal Revenue.

A special-tax payer who discontinues business is not entitled to any rebate for the unexpired portion of the year for which the special-tax stamp was issued.

Special-tax stamps are not transferable from one dealer to another. When a new member is added to a firm paying special tax, a new stamp will be required. When two per-

sons, each holding a stamp for business carried on by himself, form a partnership, the firm (a separate person, in law, from either of them) must pay special tax. Stamps for separate persons can not be joined together to answer for a partnership. (T. D. 19189; 35 Int. Rev., Rec. 285.)

Regulations governing the transfer of stamp upon removal of business from one place to another within a district or from one district to another. (Regulations No. 1. supplement No. 1, June 6, 1910; T. D. 1637.)

Collector has no discretion as to granting or declining to grant application for transfer of special-tax stamp. (T. D. 20338.)

Transfer of special-tax stamps. (T. D. 1800.)

No additional special tax in case of change of firm, one or more of its members succeeding to and carrying on the business at same place. (United States v. Glab, 99 U. S. (9 Otto). 225; 25 Int. Rev. Rec., 84.)

A member of a firm who has acquired the interest of the other members of the firm is entitled to transfer the business to another location without payment of additional special tax. (United States v. Davis, 35 Int. Rev. Rec., 46; 37 Fed., 468; Cir. No. 324; 35 Int. Rev. Rec., 109.)

A member of a firm who, upon its dissolution, carries on the business himself without associating any other person with him therein is entitled to continue the business under the firm's special-tax stamp and to have such stamp transferred to any other place to which he removes the business. (T. D. 20346.)

Where new partners are taken into a firm, thereby dissolving the old firm and creating a new partnership, the new firm can not, under the law, carry on business under the special-tax stamp of the old firm. It must make return and pay its own special tax reckoned from the first day of the month in which it began business. (T. D. 20550.)

Carrying on business at same place under different names. (T. D. 1461, revoking T. D. 1422.)

Receiver may continue business under stamp issued to bankrupt; also executor. (T. D. 1300.)

Receivers and assignors entitled to continue business without payment of additional special tax. (T. D. 318; T. D. 611.)

Additional special tax not to be required of unincorporated club by reason of changes in membership, where such changes do not result in dissolution and formation of new club. (T. D. 1625.)

Firm changing into a corporation, new special tax required. (T. D. 1165.)

A mere change of name of a firm to which a special-tax stamp has been issued does not necessitate the taking out of a new stamp. (T. D. 19064; T. D. 1451.)

A special-tax stamp taken by a woman as a retail liquor dealer, in her own name, is sufficient for the same business conducted by her husband, who takes charge of it upon her retirement therefrom; he is not required to pay special tax and take out a stamp in his own name because of the fact that a town license was refused to her, but issued to him. (T. D. 19411.)

A special-tax payer's wife may continue business under his stamp. (T. D. 19026; T. D. 862.)

SEC. 3242. Every person who carries on the business of a manufacturer of tobacco, snuff, or cigars, dealer in manufactured tobacco, dealer in leaf-tobacco, or retail dealer in leaf-tobacco, without having paid a special tax therefor, as provided by law, shall, besides being liable to the payment of the tax, be fined not more than five hundred

Carrying on business without payment of special tax.

dollars or be imprisoned not more than one year, or both, at the discretion of the court. And every person who carries on the business of a brewer or wholesale or retail dealer in malt liquors, without having paid a special tax therefor, as required by law, shall, besides being liable to the payment of the tax, be fined not less than ten dollars nor more than five hundred dollars.

The portion of this section which is omitted relates to rectifiers, liquor dealers, etc., and was superseded by the following section.

Single sale is not sufficient to convict under this section, unless made under circumstances warranting inference by jury that defendant either had liquor on hand or was ready and able to procure it for purposes of sale. (*Bailey v. United States*, 259 Fed., 88.)

Rectifiers, liquor dealers, etc., carrying on business without paying special tax.

SEC. 16. [*Act of February 8, 1875 (18 Stat., 307).*]

That any person who shall carry on the business of a rectifier, wholesale liquor dealer, retail liquor dealer, wholesale dealer in malt liquors, retail dealer in malt liquors, or manufacturer of stills, without having paid the special tax as required by law, or who shall carry on the business of a distiller without having given bond as required by law, or who shall engage in or carry on the business of a distiller with intent to defraud the United States of the tax on the spirits distilled by him, or any part thereof, shall, for every such offense, be fined not less than one hundred dollars nor more than five thousand dollars and imprisoned not less than thirty days nor more than two years. * * *

Distiller carrying on business without giving bond, or with intent to defraud.

Penalties.

Imprisonment for two years on each of two counts, to run concurrently, and fine of \$500, not excessive punishment for carrying on liquor business without paying tax. (*Foley v. United States*, 241 Fed., 587.)

Payment of tax after the offense not a bar to prosecution. (*United States v. Van Horn*, 20 Int. Rev. Rec., 145; *United States v. Devlin*, 6 Blatch., 71; Fed. Cas. No. 14953; *United States v. Ellis*, 15 Int. Rev. Rec., 43.)

Special-tax stamp not retroactive. (*United States v. Angell*, 11 Fed., 34.)

The penalty is incurred by a rectifier who omits to pay the special tax irrespective of any intention to defraud. (*United States v. Rectifying Establishment of Sloss*, 11 Int. Rev. Rec., 46.)

In regard to distillers, see section 3281, page 227.

Prosecution must be by indictment or presentment, not by information. (*United States v. Johannesen*, 35 Fed., 411.)

See note under section 3213, page 132.

Rectifiers intending to defraud. (Sec. 3317, p. 271.)

Charge to jury. (162 Fed., 736.)

The special tax receipt or certificate is by act of March 4, 1913 (37-Stat., 1005), made prima facie evidence of sale of intoxicating liquor in the District of Columbia. See section 26, act of February 14, 1917, as to sales in Alaska. (T. D. 2466.)

Exemption: denatured alcohol. (Par. N, Sec. IV, act of October 3, 1913.)

Manufacturers of and dealers in oleomargarine carrying on business without payment of special tax.

SEC. 4. [*Act of August 2, 1836 (24 Stat., 209).*] That every person who carries on the business of a manufacturer of oleomargarine without having paid the special tax therefor, as required by law, shall, besides being

liable to the payment of the tax, be fined not less than one thousand and not more than five thousand dollars; and every person who carries on the business of a wholesale dealer in oleomargarine without having paid the special tax therefor, as required by law, shall, besides being liable to the payment of the tax, be fined not less than five hundred nor more than two thousand dollars; and every person who carries on the business of a retail dealer in oleomargarine without having paid the special tax therefor, as required by law, shall, besides being liable to the payment of the tax, be fined not less than fifty nor more than five hundred dollars for each and every offense.

Any person who colors oleomargarine to cause it to look like butter of any shade of yellow, except for his own family table, is a manufacturer of oleomargarine; he alone is regarded as a manufacturer who manufactures for sale. (*Morris v. United States*, 161 Fed., 672.)

SEC. 4. [*Act of May 9, 1902 (32 Stat., 193).*] That every person who carries on the business of a manufacturer of process or renovated butter or adulterated butter without having paid the special tax therefor, as required by law, shall, besides being liable to the payment of the tax, be fined not less than one thousand and not more than five thousand dollars; and every person who carries on the business of a dealer in adulterated butter without having paid the special tax therefor, as required by law, shall, besides being liable to the payment of the tax, be fined not less than fifty nor more than five hundred dollars for each offense.

Penalty.

SEC. 3243. The payment of any tax imposed by the internal-revenue laws for carrying on any trade or business shall not be held to exempt any person from any penalty or punishment provided by the laws of any State for carrying on the same within such State, or in any manner to authorize the commencement or continuance of such trade or business contrary to the laws of such State or in places prohibited by municipal law; nor shall the payment of any such tax be held to prohibit any State from placing a duty or tax on the same trade or business, for State or other purposes.

Payment of special tax not to authorize violation of State laws, nor prohibit State taxation.

McGuire v. Commonwealth, 3 Wall., 387; *License Tax cases*, 5 Id., 462; 6 Int. Rev. Rec., 36; affirmed in *Pervear v. Commonwealth*, 5 Wall. 475.

A license (special-tax stamp) from the Federal Government, under the internal-revenue act of Congress, is no bar to an indictment under a State law prohibiting the sale of intoxicating liquors. (*Pervear v. Commonwealth*, 5 Wall., 475.)

The act of August 2, 1886 (24 Stat., 209), does not give authority to those who pay the taxes prescribed by it to engage in the manufacture or sale of oleomargarine in any State which lawfully forbids such manufacture or sale, or to disregard any regulations which a State may lawfully prescribe in reference to that article, and that act is not a regulation of commerce among the States. The statute of

Massachusetts "to prevent deception in the manufacture and sale of imitation butter," is not in conflict with the clause of the Constitution of the United States investing Congress with power to regulate commerce among the States. (*Plumley v. Massachusetts*, 155 U. S., 461.)

Persons who engage in the sale of alcoholic liquor, even though such business is a violation of the law of their State, are nevertheless required to pay special tax under the internal-revenue laws of the United States. The stamp, however, issued to them is not a license, and does not protect them from prosecution/conviction, and sentence under the State law. (T. D. 21851; see also T. D. 1484 and T. D. 1826.)

State agencies. (*South Carolina v. United States*, 199 U. S., 437; T. D. 961; 139 Ct. Cls., 257; T. D. 759.) Law of Maine requires State agents to pay special tax. (T. D. 973.)

A State statute requiring the holder of a special-tax stamp to perform duties in conflict with the Federal statute is unconstitutional. A State may not so exert its police power as to directly hamper or destroy a lawful authority of the United States. (*North Dakota ex rel. Flaherty v. Hanson*, 215 U. S., 515.)

The United States not concerned with the enforcement of local laws regulating or prohibiting the sale of liquor. (*Willingham v. United States*, 208 Fed., 137.)

Section construed in connection with section 3281, and latter section held applicable to a prohibition State. (*United States v. Lazzaro*, 255 Fed., 237.)

Special taxes.

SEC. 3244. [*Amended.*] Special taxes are imposed as follows:

Brewers.

First. Brewers shall pay one hundred dollars. Every person who manufactures fermented liquors of any name or description for sale, from malt, wholly or in part, or from any substitute therefor, shall be deemed a brewer: *Provided*, That any person who manufactures less than five hundred barrels a year shall pay the sum of fifty dollars.

Rice beer fermented is a fermented liquor made from a substitute for malt. (34 Int. Rev. Rec., 253.)

Ruling in regard to manufacture of small beer. (35 Int. Rev. Rec., 133.)

Root beer, a fermented liquor made from "roots, barks, herbs, sugar, and bread yeast," if it is not similar to weiss beer or to any of the fermented liquors enumerated in section 3339, R. S., is not subject to tax; nor is the special tax of a brewer required to be paid for its manufacture for sale. (T. D. 19383.)

Special tax is required to be paid for the manufacture and sale of "hop beer" resembling weiss beer. (T. D. 20233; T. D. 19445.)

Fermented liquor made from malt, or from substitute therefor. (T. D. 892; T. D. 646.)

Beverages under the name of "Hop ale," "Hop tonic," "Maltina," etc. (T. D. 19154.)

"Hop tea tonic." (T. D. 829.)

Tax is required to be paid on fermented liquor made from malt or from any substitute therefor containing one-half of 1 per cent of alcohol, and the manufacturer is required to qualify as a brewer. (See T. D. 1235, modified by T. Ds. 1307, 1360, 2354, 2370, 2410.)

Ambrose concentrated extract: Special tax not required for use in compounding for home consumption solely and not for sale, but if beverage contains more than one-half

of 1 per cent of alcohol by volume, special tax as brewer and malt liquor dealer would be required for its manufacture and sale, respectively. (T. D. 1787.)

A person is liable as brewer who takes tax-paid beer and adds water or other substance that increases its volume or changes its character. (Davis v. Daugherty, 105 Fed. 769; 29 Int. Rev. Rec., 297, 313.)

Second. Manufacturers of stills shall each pay fifty dollars, and twenty dollars for each still or worm for distilling made by him. Any person who manufactures any still or worm to be used in distilling shall be deemed a manufacturer of stills.

Manufacturers of stills.

SEC. 18. [Act of May 28, 1880 (21 Stat., 145).] That subsection second of section thirty-two hundred and forty-four shall not apply to distillers in registered distilleries who manufacture for their own use wooden stills, but each of said distillers shall give notice to the collector of the district in which his distillery is located of each still manufactured before the same is used.

Exception.

[Act of October 3, 1913, sec. IV, par. N., subsec. 2 (38 Stat., 114).] * * * That subsection two of section thirty-two hundred and forty-four of the Revised Statutes of the United States shall not apply to stills and worms manufactured for use in distilling, provided for in section one [four] of this act, but the manufacturer or owner of such distilling apparatus shall give notice to the collector of internal revenue of the district in which the said apparatus is made or to which it is removed, of each still, or worm, manufactured, sold, used, or exchanged under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe.

Manufacturers of stills for pharmaceutical and scientific purposes. (22 Int. Rev. Rec., 397; 36 Id. 285; T. D. 20063.)

A still made for use in the manufacture of vinegar comes under the ruling as to stills not used in the distillation of the spirits, and special tax is not required to be paid thereon.—Ruling 20878 revoked. (T. D. 11.)

Liability to special tax of manufacturers of stills of 5-gallon capacity or less, and of stills used for pharmaceutical purposes. Settled ruling, 36 Int. Rev. Rec., 285.

Stills of 5 gallons or less. (33 Int. Rev. Rec., 397.)

All stills "set up" required to be registered. (Sec. 3258, p. 209.)

Ruling in regard to repairing of stills. (35 Int. Rev. Rec., 133.)

Separate special tax to be paid on a still for distillation of spirits and on a worm for such distillation. Settled ruling as to a person who is employed by a distiller to manufacture parts of a wooden still. (T. D. 21835.)

The manufacturer of a still, to be used only for pharmaceutical purposes, or for distillation of volatile oils, is not required to pay tax thereon, provided he furnishes the collector evidence, under oath, setting forth the purpose for which the still is to be used. (T. D. 5.)

The statutory provision imposing special tax on stills is held not to apply to a still that is shown not to be in-

tended for the production of the spirits defined by the internal-revenue laws. (T. D. 64.)

The manufacturer of a worm for use by a rectifier in the redistillation of spirits is **required to pay special tax** thereon. (T. D. 917.)

There is no special tax under these laws on stills for the production of wood alcohol. (T. D. 918.)

Drawback on stills. SEC. 10. [*Act of March 1, 1879 (20 Stat., 327).*] Upon all stills manufactured for export, and actually exported, there shall be allowed a drawback, where the tax thereon has been paid, under such rules and regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe.

(See Regulations No. 29, revised.)

Rectifiers. Third. Rectifiers of distilled spirits shall pay two hundred dollars.

Rectifiers. Every person who rectifies, purifies, or refines distilled spirits or wines by any process other than by original and continuous distillation from mash, wort, or wash, through continuous closed vessels and pipes, until the manufacture thereof is complete, and every wholesale or retail liquor-dealer who has in his possession any still or leach tub, or who keeps any other apparatus for the purpose of refining in any manner distilled spirits, and every person who, without rectifying, purifying, or refining distilled spirits, shall, by mixing such spirits, wine, or other liquor with any materials, manufacture any, spurious, imitation, or compound liquors for sale, under the name of whisky, brandy, gin, rum, wine, spirits, cordials, or wine bitters, or any other name, shall be regarded as a rectifier, and as being engaged in the business of rectifying.

Sec. 4, act Mar. 1, 1879 (20 Stat., 327).

Rectifiers of less than 500 barrels a year.

Provided, That any person who rectifies, purifies, refines, or manufactures as aforesaid less than five hundred barrels a year, counting forty gallons of proof spirits to the barrel, shall pay one hundred dollars.

And provided, That nothing in this section shall be held to prohibit the purifying or refining of spirits in the course of original and continuous distillation through any material which will not remain incorporated with such spirits when the manufacture thereof is complete.

Rectifying within 600 feet of a distillery. *And provided further*, That no officer shall collect any special tax for rectifying distilled spirits on any premises distant less than six hundred feet in a direct line from any distillery. And every officer who collects any special tax in violation of this proviso shall be liable to a penalty of five thousand dollars for each offense.

Act Feb. 18, 1875 (18 Stat., 316).

Penalty for collecting special taxes.

Rectifiers or brewers who have paid special tax as "rectifiers or brewers of less than 500 barrels," and who during the same special-tax year desire to increase their product, should make application for a new stamp, of the denomination of \$200 in the case of a rectifier or \$100 in the case of

a brewer. On obtaining this new stamp the rectifier or brewer may apply to the Commissioner of Internal Revenue, under Act of May 12, 1900, for the redemption of the stamp first issued.

Gln, manufacture of. (12 Int. Rev. Rec., 197.)

Rectifying within 600 feet of a distillery. (Sec. 3266, p. 220; sec. 3280, p. 227.)

The presence of a filter, consisting of a closely packed pulp through which liquid is forced under pressure, on premises of a wholesale or retail liquor dealer constitutes such dealer a rectifier. (T. D. 19060.)

Diluting "zonal extract" with water, for personal use, is not rectifying involving special-tax liability. (T. D. 1769.)

Permitting certain described filtering apparatus in bottling warehouses, but not on premises of wholesale liquor dealers. (T. D. 21106.)

The use of filtering apparatus in filtering wines on bonded winery premises or at bonded winery storehouses is permitted, but may not be used by wholesale or retail liquor dealers without incurring special tax as rectifiers. (T. D. 2387.)

Wholesale or retail liquor dealers using "hat filter" must pay tax as rectifiers. (T. D. 2953.)

Liability of persons who mix spirits or liquors of different strengths or different kinds. (10 Int. Rev. Rec., 121.)

The addition of water or the simple mixing of spirits of the same kind, produced at the same distillery at or about the same time, is not regarded as rectification. (T. D. 1749.)

The general rule is that a wholesale liquor dealer in his capacity as such may commingle spirits of the same production, quality, and kind, differing in age not more than one year and in proof not more than 10 per cent, without rendering himself liable as a rectifier.

The addition to distilled spirits of any coloring matter or foreign substance which in any way changes the character of the spirits or remains incorporated therein is regarded as rectification. (Regulations No. 1, revised, August 15, 1907, p. 27; Stark v. Nunn, 101 Fed., 423; T. D. 121.)

Addition of caramel to spirits constitutes rectification. (T. D. 1332.)

Distinction between a distiller and a rectifier. (United States v. Marshall, Fed. Cas. No. 15726.)

Solidified whiskey. (T. D. 1735.)

Wines, vermouth, cordials, etc. (T. D. 2403.)

Any retail liquor dealer who manufactures compound liquors, except to fill bar orders previously received, held liable as rectifier. (T. D. 2346; T. D. 1014 revoked.)

Extract of ginger for use as a flavoring at soda fountains is not a medicine, and the manufacturer is liable for special tax as rectifier. (United States v. Smith, Kline & French Company, 184 Fed., 525.)

Compounding of spurious liquors with alcohol and flavoring extracts is rectification and special tax must be paid. (T. D. 1935.)

Druggists recovering alcohol previously used in making medicines. (24 Int. Rev. Rec., 282; United States v. Hance, 184 Fed., 528; T. D. 1683; 191 Fed., 593; T. D. 1732.)

The recovery of alcohol from preparations that are not medicines is rectification. (T. D. 963; United States v. Twitchell Co., 184 Fed., 525.)

Special tax as rectifier required for manufacture of alcoholic medicinal compounds which are not so medicated as to be unfit for use as a beverage and for the manufacture of medicinal cordials, flavoring extracts, essences, and soda-water sirups which contain alcohol in excess of the quan-

tity necessary to preserve the ingredients, extract the properties, or cut the oils and hold them in solution. (T. D. 1251; T. D. 1255.)

In a genuine medicine the alcohol should not be more than is necessary for the legitimate purposes of extraction, solution, or preservation, and the preparation should contain approximately a U. S. P. dose of some medicinal ingredient of recognized value, either alone or in combination with other compatible drugs. (T. D. 1510.)

Wines manufactured from prunes (T. D. 633.)

"Blackberry wine" and "blackberry cordial," produced from grapes grown in the United States, fortified with spirits and flavored with blackberry, held to be a product of rectification, but not liable to stamp tax under section 3328, Revised Statutes. (T. D. 495.)

"Honey wine," manufacture and sale of. (T. D. 2295.)

Manufacture of flavoring extracts. (Allen v. Liquid Carbonic Co., 170 Fed., 315.)

Extract of ginger for use as a flavoring at soda fountains. (United States v. Smith, Kline and French Co., 184 Fed., 525; T. D. 1684.)

For official standards, see T. D. 1843.

Retail liquor dealers. Fourth. [Sec. 18, act of February 8, 1875 (18 Stat., 309), as amended by sec. 4, act of March 1, 1879 (20 Stat., 327).] That retail dealers in liquors shall pay twenty-five dollars.

Every person who sells, or offers for sale, foreign or domestic distilled spirits, wines, or malt liquors, otherwise than as hereinafter provided, in less quantities than five wine gallons at the same time, shall be regarded as a retail dealer in liquors.

Wholesale liquor dealers. Wholesale liquor dealers shall each pay one hundred dollars.

Every person who sells, or offers for sale, foreign or domestic distilled spirits, wines, or malt liquors, otherwise than as hereinafter provided, in quantities of not less than five wine gallons at the same time, shall be regarded as a wholesale liquor-dealer.

If the quantity of malt liquor sold at one time exceeds five gallons, the vender is a wholesale dealer, although the same is not contained in one package. (United States v. Clare, 2 Fed., 55.)

In prosecutions for selling liquor at wholesale, without payment of special tax, it is not incumbent upon the Government to prove that the gallon measure used by defendant conformed to the legal standard; nor is it necessary to prove that each gallon contained a gallon of proof spirits. (United States v. Hart, 28 Int., Rev. Rec., 226.)

Failure to pay special tax; evidence not competent. (Day v. United States, 229 Fed., 534.)

Distiller not wholesale liquor dealer, when.

But no distiller who has given the required bond and who sells only distilled spirits of his own production at the place of manufacture, or at the place of storage in bond, in the original packages to which the tax-paid stamps are affixed, shall be required to pay the special tax of a wholesale liquor-dealer on account of such sales.

See section 62, act of August 27, 1894, page 274.

Distillers not liable to special tax as wholesale liquor dealers for sales of spirits of their own production at the

place of storage in bond after the expiration of their bonds as active distillers. (T. D. 2014.)

Charge to the grand jury; locker clubs. (162 Fed., 736.)

Club owning liquors and selling to members. (United States *v.* Wittig, 2 Low., 466; 22 Int. Rev. Rec., 98; United States *v.* Woods, 24 Id., 150; United States *v.* Rolinger, 28 Id., 314; United States *v.* Kallstrom, 33 Id., 152; United States *v.* Giller, 54 Fed., 656.)

Clubs.

Every social club that receives orders from its members for alcoholic liquor in any quantity less than five gallons, and furnishes the liquor so ordered and collects pay therefor, "or accepts the consumer's promise to pay in the future," sells the liquor to its members and is a retail liquor dealer under the internal-revenue laws, and is required to pay special tax accordingly. (United States *v.* The Alexis Club, 98 Fed., 725; T. D. 8. See also Mustard *v.* Elwood, 223 Fed., 225.)

Clubs or societies collecting money for purchase of liquors for joint use of contributors. (T. D. 1262.)

A social club in which beer is supplied to its members, who help themselves thereto "and throw their contributions into a box through a slot," furnishes the beer under conditions constituting sale, and is required to pay special tax. (T. D. 20119.) But if a club has lockers in which each member places the liquor he desires to drink, the liquor not having been purchased from the club, and no sale is made by the club but each member uses his own liquor, then no special-tax liability is incurred. (T. D. 1311.)

Shipping spirits to be paid for on delivery [C. O. D.]. (United States *v.* Shriver, 31 Int. Rev. Rec., 54; United States *v.* Ott, 31 Id., 79; United States *v.* Cline, 26 Fed., 515; Jug Liquor cases, 32 Int. Rev. Rec., 70; Cir. No. 285; Cir. No. 339, modifying No. 285; Dec. No. 180 (1890); 36 Int. Rev. Rec., 13; United States *v.* Orene Parker Co., 121 Fed., 596.)

C. O. D. sales.

Delivery by carrier. (United States *v.* Lackey, 120 Fed., 571.)

C. O. D. sales: When a retail liquor dealer, who has paid the special tax, ships liquors by express on orders received from another town, the express company delivering the goods and receiving and sending to the seller the purchase money, no additional special tax is required. The sale is completed, and the property passes when the goods are delivered to the carrier, the collection and transmission of the price being merely an incident of the express business. (Jones *v.* United States (1909), 170 Fed., 1; United States *v.* Adams Express Co., 119 Fed., 240.)

Ruling as to shipment of spirits to shipper's order, bill of lading attached to draft. (T. D. 1426.)

Liability for single sale or occasional acts. (United States *v.* Barnhardt, 20 Int. Rev. Rec., 137; United States *v.* Shouse, 31 Id., 120; United States *v.* Rennecke, 28 Fed., 847; letter to Collector Stearns, 31 Int. Rev. Rec., 141; United States *v.* Jackson, 1 Hughes, 531; Ledbetter *v.* United States, 170 U. S., 606; T. D. 1199.)

Single sale. (T. D. 1199.)

One is engaged in the business of a retail liquor dealer within the meaning of section 3242, Revised Statutes, if he has liquor on hand to be sold to anyone who applies for it. (United States *v.* Rennecke, 28 Fed., 847.)

"Canteens" on military reservations. (34 Int. Rev. Rec., 398.)

Post exchanges under the complete control of the Secretary of War as governmental agencies not subject to special tax as retail liquor dealers. (Dugan *v.* United States, 84 Ct. Cls., 458; T. D. 21285.)

Special tax must be paid for sale of any beverage containing distilled spirits, or wine, or malt liquor unless quantity of alcohol is too small to come within the notice of the law. (T. D. 761.)

Caterers serving banquets where liquor is furnished. (T. D. 1429.)

Sale of brandy peaches. (United States v. Stafford, 20 Fed., 720; 30 Int. Rev. Rec., 247; 18 Id., 105; T. D. 19081.)

No liability for sale of warehouse certificates for whisky in bond. (T. D. 1278.) But see decision in Taney, trustee, v. Pennsylvania National Bank. (T. D. 1959.) Overruled in T. D. 2784.

Selling at same time different packages of liquors, aggregating over 5 gallons. (T. D. 2288.)

Advertising whisky shipped on approval. (T. D. 2168.)

Retail liquor dealer not entitled to accept order for a quantity of spirits amounting to 5 gallons or more, even though he fills the order by shipping from time to time less than 5 gallons. (T. D. 655.)

Ruling as to constructive delivery. (Letter to C. W. Moulton, 23 Int. Rev. Rec., 253; T. D. 737.)

Constructive delivery. (De Bary v. Souer, 101 Fed., 425.)

Liability of party for negotiating sales for others. (30 Int. Rev. Rec., 93; United States v. Howell, 30 Int. Rev. Rec., 246.)

A person is not liable as a dealer in liquors simply for negotiating sales for others, provided he has neither actual nor constructive possession; but if he has such possession, so that a delivery, either actual or constructive, is made by him, such a delivery as vests the ownership in the purchaser, he is liable to the tax, even though he himself is not the owner of the liquors. (14 Int. Rev. Rec., 193.)

Taking orders for spirits does not render a person liable as liquor dealer. (United States v. Chevalier, 107 Fed., 434; T. D. 310.)

Selling liquors as pretended agent. (United States v. Herman Rose, 28 Int. Rev. Rec., 274.)

One subscriber ordering and receiving liquors purchased by subscription. (T. D. 1474.)

Societies receiving commissions on sales of liquors induced by them. (T. D. 1486.)

Where goods are shipped with privilege of trial before payment. (T. D. 1492.)

Question of liability of merchants to special tax for ordering liquors for others. (27 Int. Rev. Rec., 234; T. D. 699; T. D. 972; T. D. 1072; T. D. 1249; T. D. 1799.)

If commission merchants do not buy or sell but upon receipt of orders from their foreign customers act merely as purchasing agents, they do not involve themselves in special-tax liability. (T. D. 823.)

If a person buys spirits in his own name, and has the same billed to him in his own name, and deals it out from time to time, as called for, he is a retail liquor dealer although the liquor was disposed of without profit to himself, and he purchased it with money advanced by others. (United States v. Angell, 11 Fed., 34.)

Selling liquors on fair grounds. (18 Int. Rev. Rec., 81; T. D. 169.)

Importers who sell spirits in bond are wholesale liquor dealers. (United States v. McCullough, 22 Int. Rev. Rec., 202.)

Commission merchants who, at the request of foreign correspondents, occasionally purchase liquors in quantity, and take charge of shipping the same, and either charge the costs and their commissions upon their books to the account of such correspondents, or draw upon them for the full amount of the purchase price, with costs and commissions, are "wholesale liquor dealers." (Quinn v. Dimond, 72 Fed., 993.)

Agents negotiating sales.

An importer of alcoholic liquors or compounds thereof who holds a special-tax stamp as a wholesale liquor dealer at his place of business in one city, and sells and delivers packages of these liquors at a place of storage in another city, without prior constructive delivery to the purchasers at the place where such stamp is held, is required to pay additional special tax and to take out the requisite stamp for that storage place. (T. D. 19281.) (*De Bary v. Dunne*, 172 Fed., 940; T. D. 1550.)

Charge that if sales were made by defendant's clerk, it was not necessary to prove that clerk was his agent and acted with his knowledge was properly refused in prosecution for carrying on retail liquor business without paying special tax. (*Faraone v. United States*, 259 Fed., 507.)

The law does not treat distilled spirits as a drug or medicine, and doctors and druggists are not privileged to sell it as such without first paying the special tax required of dealers in liquor. (*United States v. Stafford*, 20 Fed., 720.)

Druggist liable criminally for sales by clerk. (*United States v. White*, 42 Fed., 138, 1890.)

A practicing physician who prescribed whisky for his patients, furnishing the liquor himself and charging the usual price, is liable. (*United States v. Smith*, 45 Fed., 115; T. D. 4; T. D. 806.) But not if spirits or wines are furnished under conditions which do not constitute sale thereof. (T. D. 1355.)

Sale of bitters. (29 Int. Rev. Rec., 305; 33 Id., 17; *United States v. Cota*, 17 Fed., 734; 29 Int. Rev. Rec., 249; *Hos-tetter's Bitters*, 29 Id., 273; *United States v. Bibb*, 33 Id., 391.)

Bitters sold as a beverage. The fact that the bitters were labeled patent medicine and that the defendant was advised that he might sell the same without a license was no excuse. Parties held liable as liquor dealers. (*United States v. Foster*, 39 Int. Rev. Rec., 9.)

The law is not to be avoided by mere deceptive names, and if alcoholic beverages in which the essential ingredient is distilled spirits, disguised by aromatic or other drugs, are commonly bought and sold as and for intoxicating beverages, the same are not to be classed as patent or proprietary medicines, and the seller is liable to the tax as a retail liquor dealer. (*United States v. Wilson* (article labeled as an appetiser, 1895), 69 Fed., 144; 41 Int. Rev. Rec., 411; *United States v. Bray*, 113 Fed., 1008; *United States v. Morfew*, 136 Fed., 491.)

The sale of beer, whisky, or other alcoholic liquor, which has not been combined with drugs or other medicinal substances, involves the seller in special-tax liability, even though it be sold under a label as a medicine. (T. D. 19060.)

Liability for selling alcoholic medicinal compounds. (*United States v. Starnes*, 35 Int. Rev. Rec., 136; 37 Fed., 665; *United States v. Stubblefield*, 40 Fed., 454; T. D. 1251 (new ruling); Cir. No. 707; T. D. 1255.)

To be classed as medicinal, an alcoholic compound should carry with each 1-ounce dose approximately a U. S. P. dose of some drug or drugs of recognized therapeutic value. (T. D. 1510, 1514.)

Special-tax liability of manufacturers and dealers in alcoholic medicinal compounds, etc. (T. D. 2760.)

In the case of alcoholic medicinal compounds not in conformity with the United States Pharmacopoeia or National Formulary, manufacturer must furnish data and obtain permit. (T. D. 2576.)

Revised list of alcoholic medicinal preparations for the sale of which special tax is required. Subject to further revision periodically. (T. D. 2544.)

Physicians and druggists.

Bitters.

Medicinal compounds.

Wine.

A fermented liquor made from oranges, sugar, and elder blossoms is wine within the meaning of the internal-revenue laws, and the special tax of a liquor dealer is required to be paid for its sale. (T. D. 19089.)

Where wine is used for making a "casing fluid for leaf tobacco," unless the material added to the wine changes its character so that it is neither a potable liquid nor a liquid coming under the head of distilled spirits, wine, or malt liquor, special tax is required to be paid for its manufacture and sale, even though it be sold only to cigar manufacturers for use in leaf tobacco. (T. D. 19333.)

Cider.

Special tax is not required to be paid for the sale of cider; that is, the juice of apples, whether unfermented or fermented, and whether it is "hard cider" (strongly alcoholic) or not, if no distilled spirits, or wine, or other alcoholic liquor has been added thereto. (T. D. 20309; T. D. 1174.)

Nothing is cider except the juice of apples, fermented or unfermented. Imitation cider, mixed with distilled spirits or wine, is a compound liquor, for the manufacture or sale of which special tax is required. (T. D. 20097; United States v. Lewis, T. D. 801.)

Addition of sugar to cider makes mash fit for distillation. (T. D. 2675.)

Concerning the collection of special tax as liquor dealers from distillers who sell distilled spirits in bottles put up under the act of March 3, 1897. (Cir. No. 481, 43 Int. Rev. Rec., 318.)

Auctioneer selling liquors. (T. D. 1900; T. D. 827.)

Railroad or express company selling liquors to secure charges. (T. D. 715; T. D. 828.)

Selling liquors by peddlers prohibited. (Cir. No. 143; 22 Int. Rev. Rec., 37; 22 Id., 157; T. D. 534; T. D. 951.)

Beverages containing less than one-half of 1 per cent of alcohol. (T. D. 1907.) Containing more than one-half of 1 per cent. (T. D. 2370.)

Ruling extends only to beverages of specific name or character. (T. D. 1519.)

Transfer of distillery with distilled spirits; not liable as wholesale liquor dealer. (T. D. 707.)

Retail liquor dealer selling out. (T. D. 813.)

*Retail dealers
in malt liquors.*

Fifth. [Act of February 8, 1875 (13 Stat., 309), as amended by sec. 4, act of March 1, 1879 (20 Stat., 327).] Retail dealers in malt liquors shall pay twenty dollars.

Every person who sells, or offers for sale, malt liquors in less quantities than five gallons at one time, but who does not deal in spirituous liquors, shall be regarded as a retail dealer in malt liquors.

Retail dealers in malt liquors can not retail spirituous liquors or wines without paying special tax as retail liquor dealers.

No refund of a tax to a R. M. L. D. who becomes a R. L. D. (33 Int. Rev. Rec., 397; T. D. 415.)

Special tax on bottled beer; when not imposed. (Letter to Jas. Schlitz Brewing Co., April 5, 1897; 43 Int. Rev. Rec., 193.)

Dealers in small beer. (T. D. 19154.) See note under section 3244, first paragraph, page 162.

Liability of express companies. The actual ownership of the property is not essential to fix upon the trafficker the quality of a dealer in liquors. The statute attaches to him the office of a dealer when he "sells or offers for sale malt liquors." (Western Express Co. v. United States, 141 Fed., 28; T. D. 965.)

Peddling fermented liquors. (26 Int. Rev. Rec., 169; T. D. 494.)

Wholesale dealers in malt liquors shall pay fifty dollars. Wholesale dealers in malt liquors.

Every person who sells, or offers for sale, malt liquors in quantities of not less than five gallons at one time, but who does not deal in spirituous liquors at wholesale, shall be regarded as a wholesale dealer in malt liquors:

Provided, That no brewer shall be required to pay a special tax as a dealer by reason of selling in the original stamped packages whether at the place of manufacture or elsewhere, malt liquors manufactured by him or purchased and procured by him in his own casks or vessels, under the provisions of section thirty-three hundred and forty-nine of the Revised Statutes; but the quantity of malt liquors so purchased shall be included in calculating the liability to brewer's special tax of both the brewer who manufactures and sells the same and the brewer who purchases the same. Brewers not liable to dealer's tax, when. (§ 3349.)

And it is hereby provided, That no further collection of special tax as retail dealers in malt liquors shall be made from brewers for selling malt liquors of their own manufacture in the original stamped eighth-barrel package. * * *

But no special tax shall be held to accrue on a sale of distilled spirits, wines, or malt liquors made by a person who is not otherwise a dealer in liquors, where such spirits, wines, or liquors have been received by the person so selling as security for or in payment of a debt, or as executor, administrator, or other fiduciary, or have been levied on by any officer, under order or process of any court or magistrate, and where such spirits are sold by such person in one parcel only, or at public auction in parcels not less than twenty wine gallons, nor shall such tax be held to accrue on a sale made by a retiring partner, or the representatives of a deceased partner to the incoming, remaining, or surviving partner or partners of a firm; nor shall the special tax of a wholesale liquor dealer or wholesale dealer in malt liquors be held to apply to a retail dealer in liquors or a retail dealer in malt liquors, because of such retail dealer selling out his entire stock of liquors in one parcel, or in parcels embracing not less than his entire stock of distilled spirits, of wines, or of malt liquors; and section thirty-three hundred and nineteen of the Revised Statutes shall not be held to prohibit a rectifier or liquor dealer from purchasing, in quantities greater than twenty wine-gallons, the distilled spirits sold in one parcel as aforesaid. No special tax for sales by fiduciary officer of court, etc.

No wholesale dealer's tax on sale of entire stock of retail dealer.

Sale of spirits, etc., by sheriff. (33 Int. Rev. Rec., 405.)
Brewers shipping bottled beer C. O. D. (33 Int. Rev. Rec., 77.)

A brewer holding a special-tax stamp of the smaller class is not required to pay special tax as a brewer of the larger class until the entire quantity of beer produced by him within the special-tax year amounts to 500 barrels. As soon as the quantities produced month by month within that

period amount in the aggregate to 500 barrels he must pay the special tax of a brewer of the larger class for the entire year (\$100). He may then send in his stamp of the smaller class for redemption. (T. D. 19439.)

Brewers who establish places of storage for bottled beer, and complete sales by deliveries therefrom to purchasers in wholesale quantities, are required to pay special tax as wholesale dealers in malt liquor at every such place. (T. D. 19440; but see T. D. 21619).

Where a brewer ships bottled beer marked for delivery to persons who had ordered it, but consigns and waybills the beer in general terms to his agent, instead of shipping it to these persons, sale is made at the time and place of the actual delivery by the agent. (T. D. 21852; T. D. 1369; T. D. 1426.)

Persons calling themselves agents of brewers in the sale of original stamped packages of beer should furnish abstracts from the books of the brewers, showing how the beer is charged, or billed, and also a statement under oath by the brewers, showing that the beer remains absolutely their property until sold, and that these persons are under their orders and control in making such sales. (T. D. 21019.)

They must show that the beer remains absolutely the property of the brewers until sold by them on account of the brewers, and not on their own account. (T. D. 21836.)

A fermented malt liquor, though diluted to such an extent as to be called nonintoxicating, is a beverage for the sale of which special tax must be paid under the internal-revenue laws. (T. D. 21473.)

Temperance beer. (T. D. 2410.)

The executor of a person who had been a manufacturer of wine is entitled to sell the wine made by his testator at one "business office" in any quantities, small or large, through an auctioneer, without the payment of special tax; but if the testator was not the manufacturer of the wine, the executor or his auctioneer is not entitled to sell the wine without paying special tax therefor, unless he disposes of the entire quantity of wine at a single sale. (T. D. 21648.)

Executor selling liquor. (T. D. 419.)

Malt tonics and extracts containing more than 2 per cent alcohol classed as fermented malt liquors. (T. D. 2717.)

Sale of liquors by railroad company and express company to pay freight charges. (T. Ds. 255, 715, 828.)

SEC. 3. [*Act of August 2, 1886 (24 Stat., 209), as amended by sec. 2 of the act of May 9, 1902 (32 Stat., 193).*] Manufacturers of oleomargarine shall pay six hundred dollars. Every person who manufactures oleomargarine for sale shall be deemed a manufacturer of oleomargarine.

And any person that sells, vends, or furnishes oleomargarine for the use and consumption of others, except to his own family table without compensation, who shall add to or mix with such oleomargarine any artificial coloration that causes it to look like butter of any shade of yellow shall also be held to be a manufacturer of oleomargarine within the meaning of said Act, and subject to the provisions thereof.

See *United States v. White & Paller* (T. D. 1334); *United States v. Shipley* (T. D. 1504); *Zinn Co. v. United States* (T. D. 1517); *Enders v. United States* (T. D. 1669); *Morris v. United States* (161 Fed., 672); *Hart v. United States* (183 Fed., 368.)

Not necessary to prove sales. (*Vermont v. United States*, 174 Fed., 792; *T. D.* 1579; *May v. United States*, *T. D.* 1797.)

On the trial of an indictment for manufacturing oleomargarine without payment of special tax it is not necessary for the Government to prove that sales or deliveries were actually made; it is no violation to color oleomargarine solely for the family table, or for consumption in the kitchen, or for other household uses; revenue officers have the right to seize oleomargarine unlawfully prepared for sale wherever found. (*T. D.* 1504.)

Wholesale dealers in oleomargarine shall pay four hundred and eighty dollars. Every person who sells or offers for sale oleomargarine in the original manufacturer's packages shall be deemed a wholesale dealer in oleomargarine. Oleomargarine
manufacturers
and dealers.

One who borrowed unbroken package of oleomargarine from another, afterwards returning precise amount of same product and brand, was not wholesale dealer in oleomargarine. (*Weaver v. Ewers*, 195 Fed., 247.)

But any manufacturer of oleomargarine who has given the required bond and paid the required special tax, and who sells only oleomargarine of his own production, at the place of manufacture, in the original packages to which the tax-paid stamps are affixed, shall not be required to pay the special tax of a wholesale dealer in oleomargarine on account of such sales.

When a broker in oleomargarine is not a wholesale dealer. (32 Int. Rev. Rec., 373.)

Retail dealers in oleomargarine shall pay forty-eight dollars. Every person who sells oleomargarine in less quantities than ten pounds at one time shall be regarded as a retail dealer in oleomargarine.

And sections thirty-two hundred and thirty-two, thirty-two hundred and thirty-three, thirty-two hundred and thirty-four, thirty-two hundred and thirty-five, thirty-two hundred and thirty-six, thirty-two hundred and thirty-seven, thirty-two hundred and thirty-eight, thirty-two hundred and thirty-nine, thirty-two hundred and forty, thirty-two hundred and forty-one, and thirty-two hundred and forty-three of the Revised Statutes of the United States are, so far as applicable, made to extend to and include and apply to the special taxes imposed by this section, and to the persons upon whom they are imposed: §§ 3232, 3233,
3234, 3235, 3236,
3237, 3238, 3239,
3240, 3241, 3243,
applicable,
pp. —

Provided further, That wholesale dealers who vend no other oleomargarine or butterine except that upon which a tax of one-fourth of one per cent per pound is imposed by this Act, as amended, shall pay two hundred dollars; and such retail dealers as vend no other oleomargarine or butterine except that upon which is imposed by this Act, as amended, a tax of one-fourth of one cent per pound shall pay six dollars. Exception.

Rulings as to sales of oleomargarine. (32 Int. Rev. Rec., 365, 381.)

The 50 per cent penalty imposed by section 3176, Revised Statutes, does not apply to the taxes imposed by the oleomargarine act. (*Schafer v. Craft*, 144 Fed., 907; 153 Fed., 175; 154 Fed., 1002. *Grier v. Tucker*, 150 Fed., 638; 160 Fed., 611; T. D. 1455.)

Liability as wholesale dealer. (*Judd O. Hartzell v. United States*, T. D. 2; 83 Fed., 1002; *Mitchell v. Cole*, 226 Fed., 824.)

Liability of retail dealers in oleomargarine making loan of wholesale quantities to be returned. (T. D. 1192, modified by T. D. 1233.)

Manufacturers and wholesale dealers may sell oleomargarine only in original stamped packages of not less than 10 pounds. A retail dealer must sell only from original stamped packages in quantities of not more than 10 pounds, packed in new wooden or paper packages marked with his name and address, and the word "Oleomargarine" in large letters printed or branded thereon. (See sec. 6, act Aug. 2, 1886, p. 431.)

A sheriff or other officer who levies upon and sells the oleomargarine belonging to the stock of goods of a retail dealer in oleomargarine is not required to pay special tax therefor, inasmuch as he is acting in his official character, in the discharge of lawful duties. (T. D. 730.)

Retail dealers are not permitted to peddle oleomargarine on the streets. (T. D. 610.)

Liability of agents or brokers receiving and transmitting orders for oleomargarine to manufacturers. Unless sales are fully completed at the factory to the persons ordering, special tax is required to be paid at the place of delivery. (T. D. 18978.)

Parties selling oleomargarine are liable to special tax, although they are ignorant that the substance is oleomargarine. (Charge of Judge Jackson in *Hubbard & Paul v. Collector Gilkeson*, U. S. circuit court, district of West Virginia. T. D. 10246; *Eagle v. Nowlin*, 94 Fed., 646, T. D. 21228.)

Dealers in colored and uncolored oleomargarine.—Where a person pays special tax as a dealer in uncolored oleomargarine and thereafter desires to sell also colored oleomargarine, the only course for him to pursue is to pay the special tax at the higher rate for the entire period to the close of the year, and take out the requisite special-tax stamp, and then send in for redemption the special-tax stamp taken out at the lower rate. (T. D. 526.)

SEC. 4. [Act of May 9, 1902 (32 Stat., 195).] * * *

That special taxes are imposed as follows:

Special tax of manufacturers, renovated and adulterated butter. Manufacturers of process or renovated butter shall pay fifty dollars per year and manufacturers of adulterated butter shall pay six hundred dollars per year. Every person who engages in the production of process or renovated butter or adulterated butter as a business shall be considered to be a manufacturer thereof.

Coopersville Cooperative Creamery v. Lemon. (163 Fed., 145; T. D. 1371.)

Special tax of dealers in adulterated butter. Wholesale dealers in adulterated butter shall pay a tax of four hundred and eighty dollars per annum, and retail dealers in adulterated butter shall pay a tax of forty-eight dollars per annum. Every person who sells adulterated butter in less quantities than ten pounds at one time shall be regarded as a retail dealer in adulterated butter.

Every person who sells adulterated butter shall be regarded as a dealer in adulterated butter. And sections thirty-two hundred and thirty-two, thirty-two hundred and thirty-three, thirty-two hundred and thirty-four, thirty-two hundred and thirty-five, thirty-two hundred and thirty-six, thirty-two hundred and thirty-seven, thirty-two hundred and thirty-eight, thirty-two hundred and thirty-nine, thirty-two hundred and forty, thirty-two hundred and forty-one, and thirty-two hundred and forty-three of the Revised Statutes of the United States are, so far as applicable, made to extend to and include and apply to the special taxes imposed by this section and to the person upon whom they are imposed.

Dealer defined.

A dealer in adulterated butter is liable to the tax whether he "knowingly" engaged in the business or not. (*Lawrence & Co. v. Seyburn*, 202 Fed., 913; T. D. 1851.)

SEC. 3. [*Act of June 6, 1896 (29 Stat., 253).*]

Manufacturers of filled cheese shall pay four hundred dollars for each and every factory per annum. Every person, firm, or corporation who manufactures filled cheese for sale shall be deemed a manufacturer of filled cheese. Wholesale dealers in filled cheese shall pay two hundred and fifty dollars per annum. Every person, firm, or corporation who sells or offers for sale filled cheese, in the original manufacturer's packages for resale, or to retail dealers as hereinafter defined, shall be deemed a wholesale dealer in filled cheese. But any manufacturer of filled cheese who has given the required bond and paid the required special tax, and who sells only filled cheese of his own production, at the place of manufacture, in the original packages, to which the tax-paid stamps are affixed, shall not be required to pay the special tax of a wholesale dealer in filled cheese on account of such sales.

Manufacturers of filled cheese.

Wholesale dealers in filled cheese.

Retail dealers in filled cheese shall pay twelve dollars per annum. Every person who sells filled cheese at retail, not for resale, and for actual consumption, shall be regarded as a retail dealer in filled cheese, and sections thirty-two hundred and thirty-two, thirty-two hundred and thirty-three, thirty-two hundred and thirty-four, thirty-two hundred and thirty-five, thirty-two hundred and thirty-six, thirty-two hundred and thirty-seven, thirty-two hundred and thirty-eight, thirty-two hundred and thirty-nine, thirty-two hundred and forty, thirty-two hundred and forty-one, thirty-two hundred and forty-three of the Revised Statutes of the United States are, so far as applicable, made to extend to and include and apply to the special taxes imposed by this section and to the persons, firms, or corporations upon whom they are imposed: *Provided*, That all special taxes under this Act shall become due on the first day of July in every year, or on commencing any manufacture, trade, or business on which said tax is imposed. In the

Retail dealers.

Taxes, when due.

latter case the tax shall be reckoned proportionately from the first day of the month in which the liability to the special tax commences to the first day of July following.

Penalties.

SEC. 4. (Same.) That every person, firm, or corporation who carries on the business of a manufacturer of filled cheese without having paid the special tax therefor, as required by law, shall, besides being liable to the payment of the tax, be fined not less than four hundred dollars and not more than three thousand dollars; and every person, firm, or corporation who carries on the business of a wholesale dealer in filled cheese without having paid the special tax therefor, as required by law, shall, besides being liable to the payment of the tax, be fined not less than two hundred and fifty dollars nor more than one thousand dollars; and every person, firm, or corporation who carries on the business of a retail dealer in filled cheese without having paid the special tax therefor, as required by law, shall, besides being liable for the payment of the tax, be fined not less than forty nor more than five hundred dollars for each and every offense.

Manufacturers and packers of mixed flour.

SEC. 36. [*Act of June 13, 1898 (30 Stat., 448).*] That every person, firm, or corporation, before engaging in the business of making, packing, or repacking mixed flour, shall pay a special tax at the rate of twelve dollars per annum, the same to be paid and posted in accordance with the provisions of sections thirty-two hundred and forty-two and thirty-two hundred and thirty-nine of the Revised Statutes, and subject to the fines and penalties therein imposed for any violation thereof.

Penalties.

SEC. 3245. [*Obsolete.*]

Special tax not to apply to vintners or apothecaries in certain cases.

SEC. 3246. [*Amended by sec. 5, act of March 1, 1879 (20 Stat., 327), and act of March 3, 1915 (38 Stat., 893).*] Nothing in this chapter shall be construed to impose a special tax upon vintners who sell wine of their own growth, or manufacturers who sell wine produced from grapes grown by others, at the place where the same is made or at the general business office of such vintner or manufacturer: *Provided*, That no vintner or manufacturer shall have more than one office for the sale of such wine that shall be exempt from special tax under this act; nor shall any special tax be imposed upon apothecaries as to wines or spirituous liquors which they use exclusively in the preparation or making-up of medicines.

Nor shall any special tax be imposed upon manufacturing chemists or flavoring extract manufacturers for recovering tax-paid alcohol or spirituous liquors from dregs or marc of percolation or extraction if said recovered alcohol or spirituous liquors be again used in the manufacture of flavoring extracts.

Limitation of a druggist's right to sell liquors without paying special tax. (34 Int. Rev. Rec., 157.)

An apothecary, who bona fide uses spirituous liquors in the preparation of a medicine to be used as such and not as a beverage, does not violate section 3242, by not paying the special tax required of a retail liquor dealer. (*United States v. Calhoun*, 39 Fed., 604.)

Druggists compounding medicines. (T. D. 933; T. D. 1514.)

The fact that a person is an authorized liquor dealer under the internal-revenue laws does not prevent him from engaging also in the compounding of medicines; and if he does so, using spirits in combination with roots, herbs, or drugs, and sells the compound only under a label specifying the diseases for which it is held out as a remedy, he is an apothecary within the exempting provision of section 3246. (T. D. 19412.)

The exemption from special tax granted druggists for use of spirits or wine by this section relates only to medicines in which the spirits or wine used have been changed in nature and made clearly medicinal by the addition of drugs. (T. D. 1019.)

What alcoholic compounds may be classed as medicinal. (T. D. 1510.)

Medicinal compounds.

A manufacturer of medicinal compounds, by the use of tax-paid spirits in combination with drugs, is entitled to the exemption when he sells such compounds only under labels specifying the diseases for which they are held out as remedies, and his use of a pharmaceutical still in the preparation of these medicines does not involve him in liability under the internal-revenue laws. (T. D. 19347.)

A compound of medicinal roots and distilled spirits, if held out not merely as a remedy for disease, but also as "bitters for mixed drinks," is not to be regarded as made in good faith for medicinal use only, and the manufacturer who sells it under such a label is not entitled to the exemption, and is required to pay special tax as a rectifier and liquor dealer. (T. D. 19442.)

Where grapes are pressed at one place and the juice is then carried to another place and there fermented, the latter is the place of manufacture of the wine, and the manufacturer is there permitted by the provisions of section 3246 to sell it without paying special tax. (T. D. 19410.)

Wine.

A person who sells blackberry wine (a fermented liquor made from blackberry juice) is required to pay special tax as a liquor dealer for selling the wine, unless he is the manufacturer of it and has made it from berries grown by himself or gathered wild by himself or by persons in his employ, and the wine is sold by him only at the place of manufacture or at his one "general business office." (T. D. 20366.)

A person who buys elderberries and makes wine therefrom is not within the exempting provision, and is required to pay special tax for selling such wine, even when he sells it at the place of manufacture. (T. D. 20541.)

Where grapes are sent to be crushed and the wine returned to grower special tax required. (T. D. 1556.)

Defining standards for determining special tax liability. (T. D. 1843.)

The recovery of alcohol by an apothecary which has been used in making up medicine to be again used by him for the same purpose is permissible. Where the alcohol is not used exclusively for the preparation of medicines exemption does not apply. (*United States v. Hance et al.*, 184 Fed., 528; T. D. 1683; affirmed, 191 Fed., 593; T. D. 1732.)

Use of alcohol recovered from dregs, etc., in any other manner than that prescribed, without payment of special tax, not permitted. (T. D. 2760.)

Standard to which manufacturer of and dealer in alcoholic medicinal compound must conform in order to be exempt from tax stated. (T. Ds. 2760, 2767.)

Manufacturers of extract of ginger as a flavoring not entitled to exemption. (T. D. 1684.)

SEC. 1000. [Act of February 24, 1919 (40 Stat., 1057).]

(a) That on and after July 1, 1918, in lieu of the tax imposed by the first subdivision of section 407 of the Revenue Act of 1916—

Capital stock
tax. (See Regu-
lations 50, April
29, 1919.)

(1) Every domestic corporation shall pay annually a special excise tax with respect to carrying on or doing business, equivalent to \$1 for each \$1,000 of so much of the fair average value of its capital stock for the preceding year ending June 30, as is in excess of \$5,000. In estimating the value of capital stock the surplus and undivided profits shall be included;

(2) Every foreign corporation shall pay annually a special excise tax with respect to carrying on or doing business in the United States, equivalent to \$1 for each \$1,000 of the average amount of capital employed in the transaction of its business in the United States during the preceding year ending June thirtieth.

(b) In computing the tax in the case of insurance companies such deposits and reserve funds as they are required by law or contract to maintain or hold for the protection of or payment to or apportionment among policyholders shall not be included.

(c) The taxes imposed by this section shall not apply in any year to any corporation which was not engaged in business (or in the case of a foreign corporation not engaged in business in the United States) during the preceding year ending June 30, nor to any corporation enumerated in section 231 [p. 496]. The taxes imposed by this section shall apply to mutual insurance companies, and in the case of every such domestic company the tax shall be equivalent to \$1 for each \$1,000 of the excess over \$5,000 of the sum of its surplus or contingent reserves maintained for the general use of the business and any reserves the net additions to which are included in net income under the provisions of Title II [p. 473], as of the close of the preceding accounting period used by such company for purposes of making its income tax return: *Provided*, That in the case of a foreign mutual insurance company the tax shall be equivalent to \$1 for each \$1,000 of the same proportion of the sum of such surplus and reserves, which the reserve fund upon business transacted within the United States is of the total reserve upon all business transacted, as of the close of the preceding accounting period used by such company for purposes of making its income tax return.

(d) Section 257 [p. 510] shall apply to all returns filed with the Commissioner for purposes of the tax imposed by this section.

- Engaged in business. (T. D. 2457.)
- Fair value. (T. D. 2500.)
- Holding companies. (T. D. 2429.)
- Subsidiaries, returns of. (T. D. 2493.)
- Citations from decisions of Supreme Court. (T. D. 2418.)
- Rulings. (T. Ds. 2417, 2423, 2467.)
- Value of stocks, how ascertained. (T. D. 2426.)
- Corporations in hands of receivers. (T. D. 2424.)
- Preparation of returns. (T. D. 2503.)
- Limited partnerships of the Pennsylvania and New York types. (T. D. 2711.)
- Railroad corporations under Federal control. (T. D. 2800.)
- Trust company doing business as banker; act of October 22, 1914. (*Anderson v. Farmer's Loan & Trust Co.*, 241 Fed., 322; T. D. 2460.)
- Regulations governing inspection of returns. (T. D. 2961.)
- Furnishing copies of returns. (T. D. 2962.)
- Articles 41 and 102, Regulations No. 50, amended. (T. D. 2979.)

SEC. 1001. [*Act of February 24, 1919 (40 Stat., 1057).*] That on and after January 1, 1919, there shall be levied, collected, and paid annually the following special taxes—

(1) Brokers shall pay \$50. Every person whose business it is to negotiate purchases or sales of stocks, bonds, exchange, bullion, coined money, bank notes, promissory notes, other securities, produce or merchandise, for others, shall be regarded as a broker. If a broker is a member of a stock exchange, or if he is a member of any produce exchange, board of trade, or similar organization, where produce or merchandise is sold, he shall pay an additional amount as follows: If the average value, during the preceding year ending June 30, of a seat or membership in such exchange or organization was \$2,000 or more but not more than \$5,000, \$100; if such value was more than \$5,000, \$150.

Brokers.

A bank not holding itself out as engaged in negotiating purchases or sales of stock, etc., but merely negotiating purchase and sale thereof for patrons, without remuneration, not liable as broker. (T. D. 2782.)

(2) Pawnbrokers shall pay \$100. Every person whose business or occupation it is to take or receive, by way of pledge, pawn, or exchange, any goods, wares, or merchandise, or any kind of personal property whatever, as security for the repayment of money loaned thereon, shall be regarded as a pawnbroker.

Pawnbrokers.

(3) Ship brokers shall pay \$50. Every person whose business it is as a broker to negotiate freights and other business for the owners of vessels, or for the shippers or consignors or consignees of freight carried by vessels, shall be regarded as a ship broker.

Ship brokers.

Customhouse
brokers.

(4) Customhouse brokers shall pay \$50. Every person whose occupation it is, as the agent of others, to arrange entries and other customhouse papers, or transact business at any port of entry relating to the importation or exportation of goods, wares, or merchandise, shall be regarded as a customhouse broker.

A person or firm holding himself or itself out to the public as engaged in the occupation of customhouse broker, either by maintaining an office or sending out literature, advertising matter, etc., is required to pay special tax. (T. D. 2321.)

Theaters, mu-
seums, and con-
cert halls.

(5) Proprietors of theaters, museums, and concert halls, where a charge for admission is made, having a seating capacity of not more than two hundred and fifty, shall pay \$50; having a seating capacity of more than two hundred and fifty and not exceeding five hundred, shall pay \$100; having a seating capacity exceeding five hundred and not exceeding eight hundred, shall pay \$150; having a seating capacity of more than eight hundred, shall pay \$200. Every edifice used for the purpose of dramatic or operatic or other representations, plays, or performances, for admission to which entrance money is received, not including halls or armories rented or used occasionally for concerts or theatrical representations, and not including edifices owned by religious, educational or charitable institutions, societies or organizations where all the proceeds from admissions inure exclusively to the benefit of such institutions, societies or organizations or exclusively to the benefit of persons in the military or naval forces of the United States, shall be regarded as a theater: *Provided*, That in cities, towns, or villages of five thousand inhabitants or less the amount of such payment shall be one-half of that above stated: *Provided further*, That whenever any such edifice is under lease at the time the tax is due, the tax shall be paid by the lessee, unless otherwise stipulated between the parties to the lease.

Returns. (T. D. 2775.)

Circuses.

(6) The proprietor or proprietors of circuses shall pay \$100. Every building, space, tent, or area, where feats of horsemanship or acrobatic sports or theatrical performances not otherwise provided for in this section are exhibited shall be regarded as a circus: *Provided*, That no special tax paid in one State, Territory, or the District of Columbia shall exempt exhibitions from the tax in another State, Territory, or the District of Columbia, and but one special tax shall be imposed for exhibitions within any one State, Territory, or District.

Public exhibi-
tions or shows.

(7) Proprietors or agents of all other public exhibitions or shows for money not enumerated in this section shall pay \$15: *Provided*, That a special tax paid in one State, Territory, or the District of Columbia shall not exempt

exhibitions from the tax in another State, Territory, or the District of Columbia, and but one special tax shall be required for exhibitions within any one State, Territory, or the District of Columbia: *Provided further*, That this paragraph shall not apply to Chautauquas, lecture lyceums, agricultural or industrial fairs, or exhibitions held under the auspices of religious or charitable associations: *Provided further*, That an aggregation of entertainments, known as a street fair, shall not pay a larger tax than \$100 in any State, Territory, or in the District of Columbia.

Exemption of Chautauquas, etc. (T. D. 2448.)

(8) Proprietors of bowling alleys and billiard rooms shall pay \$10 for each alley or table. Every building or place where bowls are thrown or where games of billiards or pool are played, except in private homes, shall be regarded as a bowling alley or a billiard room, respectively. Bowling alleys and billiard rooms.

Pool tables and bowling alleys are exempt if tax would fall upon State treasury; otherwise tax is due on account of pool tables and bowling alleys in State armories, fire houses, etc., and also in clubs, Y. M. C. A. buildings, hotels, etc. (T. D. 2462.)

Post exchanges, if under Government control, not liable to special tax for operating billiard or pool tables or bowling alleys. (T. D. 2439.)

(9) Proprietors of shooting galleries shall pay \$20. Every building, space, tent, or area, where a charge is made for the discharge of firearms at any form of target shall be regarded as a shooting gallery. Shooting galleries.

(10) Proprietors of riding academies shall pay \$100. Every building, space, tent, or area, where a charge is made for instruction in horsemanship or for facilities for the practice of horsemanship shall be regarded as a riding academy. Riding academies.

(11) Persons carrying on the business of operating or renting passenger automobiles for hire shall pay \$10 for each such automobile having a seating capacity of more than two and not more than seven, and \$20 for each such automobile having a seating capacity of more than seven. Operating or renting passenger automobiles.

(12) Every person carrying on the business of a brewer, distiller, wholesale liquor dealer, retail liquor dealer, wholesale dealer in malt liquor, retail dealer in malt liquor, or manufacturer of stills, as defined in section 3244 as amended and section 3247 of the Revised Statutes, in any State, Territory, or District of the United States contrary to the laws of such State, Territory, or District, or in any place therein in which carrying on such business is prohibited by local or municipal law, shall pay, in addition to all other taxes, special or otherwise, imposed by existing law or by this Act, \$1,000. Brewers, distillers, etc.

The payment of the tax imposed by this subdivision shall not be held to exempt any person from any penalty

or punishment provided for by the laws of any State, Territory, or District for carrying on such business in such State, Territory, or District, or in any manner to authorize the commencement or continuance of such business contrary to the laws of such State, Territory, or District, or in places prohibited by local or municipal law.

The taxes imposed by this section shall, in the case of persons upon whom a corresponding tax is imposed by section 407 of the Revenue Act of 1916, be in lieu of such tax.

Person operating motor buses along established or recognized routes, charging patrons a fixed charge per ride, is carrying on a business of operating passenger automobiles for hire, and is therefore liable to the tax imposed by subdivision (11) of this section; automobile hearse, even though having seating capacity for more than two persons, operated for hire, is not a passenger automobile subject to tax under said subdivision (11). (T. D. 2893.)

Tobacco, ci-
gar, and ciga-
rette manufac-
turers.

SEC. 1002. [*Act of February 24, 1919 (40 Stat., 1057).*] That on and after January 1, 1919, there shall be levied, collected, and paid annually, in lieu of the taxes imposed by section 408 of the Revenue Act of 1916, the following special taxes, the amount of such taxes to be computed on the basis of the sales for the preceding year ending June 30—

Manufacturers of tobacco whose annual sales do not exceed fifty thousand pounds shall each pay \$6;

Manufacturers of tobacco whose annual sales exceed fifty thousand and do not exceed one hundred thousand pounds shall each pay \$12;

Manufacturers of tobacco whose annual sales exceed one hundred thousand and do not exceed two hundred thousand pounds shall each pay \$24;

Manufacturers of tobacco whose annual sales exceed two hundred thousand pounds shall each pay \$24, and at the rate of 16 cents per thousand pounds, or fraction thereof, in respect to the excess over two hundred thousand pounds;

Manufacturers of cigars whose annual sales do not exceed fifty thousand cigars shall each pay \$4;

Manufacturers of cigars whose annual sales exceed fifty thousand and do not exceed one hundred thousand cigars shall each pay \$6;

Manufacturers of cigars whose annual sales exceed one hundred thousand and do not exceed two hundred thousand cigars shall each pay \$12;

Manufacturers of cigars whose annual sales exceed two hundred thousand and do not exceed four hundred thousand cigars shall each pay \$24;

Manufacturers of cigars whose annual sales exceed four hundred thousand cigars shall each pay \$24, and at the rate of 10 cents per thousand cigars, or fraction

thereof, in respect to the excess over four hundred thousand cigars;

Manufacturers of cigarettes, including small cigars weighing not more than three pounds per thousand shall each pay at the rate of 6 cents for every ten thousand cigarettes, or fraction thereof.

In arriving at the amount of special tax to be paid under this section, and in the levy and collection of such tax, each person engaged in the manufacture of more than one of the classes of articles specified in this section shall be considered and deemed a manufacturer of each class separately.

SEC. 1003. [*Act of February 24, 1919 (40 Stat., 1057).*] ^{Use of yachts, pleasure boats, etc.} That sixty days after the passage of this Act, and thereafter on July 1 in each year, and also at the time of the original purchase of a new boat by a user, if on any other date than July 1, there shall be levied, assessed, collected, and paid in lieu of the tax imposed by section 603 of the Revenue Act of 1917, upon the use of yachts, pleasure boats, power boats, and sailing boats, of over five net tons, and motor boats with fixed engines, not used exclusively for trade, fishing, or national defense, or not built according to plans and specifications approved by the Navy Department, a special excise tax to be based on each yacht or boat, at rates as follows: Yachts, pleasure boats, power boats, motor boats with fixed engines, and sailing boats, of over five net tons, length not over fifty feet, \$1 for each foot; length over fifty feet and not over one hundred feet, \$2 for each foot; length over one hundred feet, \$4 for each foot; motor boats of not over five net tons with fixed engines, \$10.

In determining the length of such yachts, pleasure boats, power boats, motor boats with fixed engines, and sailing boats, the measurement of over-all length shall govern.

In the case of a tax imposed at the time of the original purchase of a new boat on any other date than July 1, and in the case of the tax taking effect sixty days after the passage of this Act, the amount to be paid shall be the same number of twelfths of the amount of the tax as the number of calendar months (including the month of sale, or the month in which is included the sixty-first day after the passage of this Act, as the case may be) remaining prior to the following July 1.

If the tax imposed by section 603 of the Revenue Act of 1917, for the fiscal year ending June 30, 1919, has been paid in respect to the use of any boat, the amount so paid shall under such regulations as the Commissioner, with the approval of the Secretary, may prescribe, be credited upon the first tax due under this section in respect to the use of such boat, or be refunded to the person paying the ^{Credit of tax paid.}

first tax imposed by this section in respect to the use of such boat.

Receipts.

SEC. 1004. [*Act of February 24, 1919 (40 Stat., 1057).*] That if the tax imposed by section 407 or 408 of the Revenue Act of 1916, for the fiscal year ending June 30, 1919, has been paid by any person subject to the corresponding tax imposed by this title, collectors may issue a receipt in lieu of special tax stamp for the amount by which the tax under this title is in excess of that paid or payable and evidenced by stamp under the Revenue Act of 1916. Such receipt shall be posted as in the case of the special tax stamp, as provided by law, and with it, within the place of business of the taxpayer.

Credit of tax paid.

If the corresponding tax imposed by section 407 of the Revenue Act of 1916 was not payable by stamp, the amount paid under such section for any period for which a tax is also imposed by this title may be credited against the tax imposed by this title.

Penalty.

SEC. 1005. [*Act of February 24, 1919 (40 Stat., 1057).*] That any person who carries on any business or occupation for which a special tax is imposed by sections 1000, 1001, or 1002, without having paid the special tax therein provided, shall, besides being liable for the payment of such special tax, be subject to a penalty of not more than \$1,000 or to imprisonment for not more than one year, or both.

SEC. 1006. [*Act of February 24, 1919 (40 Stat., 1057), amending sec. 1, act of December 17, 1914 (38 Stat., 785).*] (See Chapter 10, p. 417.)

SEC. 1007. [*Act of February 24, 1919 (40 Stat., 1057), amending sec. 6, act of December 17, 1914 (38 Stat., 785).*] (See Chapter 10, p. 423.)

SEC. 1008. [*Act of February 24, 1919 (40 Stat., 1057).*] (See Chapter 10, p. 427.)

Former acts repealed.

SEC. 1009. [*Act of February 24, 1919 (40 Stat., 1057).*] That the Act approved October 22, 1914, entitled "An Act to increase the internal revenue, and for other purposes," and the joint resolution approved December 17, 1915, entitled "Joint resolution extending the provisions of the Act entitled 'An Act to increase the internal revenue, and for other purposes,' approved October twenty-second, nineteen hundred and fourteen, to December thirty-first, nineteen hundred and sixteen," are hereby repealed, except that the provisions of such Act shall remain in force for the assessment and collection of all special taxes imposed by sections 3 and 4 thereof, or by such sections as extended by such joint resolution, for any year or part thereof ending prior to January 1, 1917, and of all other taxes imposed by such Act, or by such Act as so extended, accrued prior to September 8, 1916, and for the imposition and collection of all penalties or forfeitures which have accrued or may accrue in relation to any of such taxes.

SEC. 1. [*Act of February 14, 1917 (39 Stat., 903), extract.*] That on and after the first day of January, anno Domini nineteen hundred and eighteen, it shall be unlawful for any person, house, association, firm, company, club, or corporation, his, its, or their agents, officers, clerks, or servants, to manufacture, sell, give, or otherwise dispose of any intoxicating liquor or alcohol of any kind in the Territory of Alaska or to have in his or its possession or to transport any intoxicating liquor or alcohol in the Territory of Alaska unless the same was procured and is so possessed and transported as hereinafter provided.

Sale, etc., of
intoxicating liq-
uors in Alaska.

Whenever the term "liquor," "intoxicating liquor," or "intoxicating liquors" is used in this act it shall be deemed to include whisky, brandy, rum, gin, wine, ale, porter, beer, cordials, hard or fermented cider, alcoholic bitters, ethyl alcohol, and all malt liquors, including all alcoholic compounds classed by the United States Internal Revenue Bureau as "compound liquors": *Provided*, That this act shall not apply to methyl or wood alcohol.

Definitions.

Liquors in possession of common carrier in Alaska on or after January 1, 1918, although in course of shipment in interstate commerce, are subject to seizure and forfeiture. (Northern Commercial Co. v. Brennehan, 259 Fed. 514.)

* * * * *

SEC. 26. (Same.) That the issuance by the United States of any internal-revenue special-tax stamp or receipt to any person as a dealer in intoxicating liquors shall be prima facie evidence of the sale of intoxicating liquors by such person during the time the stamp or receipt is in force and effect.

Special tax
stamp—prima
facie evidence.

A copy of such stamp or receipt or of the record of the issuance thereof, certified to by a United States internal-revenue officer having charge of such record, is admissible as evidence in like case and with like effect as the original stamp or receipt.

SEC. 27. (Same.) That it shall be the duty of the governor of Alaska, the United States marshals and their deputies, mayors and members of town councils, town marshals, and police officers of all incorporated towns in Alaska, all Federal game wardens, agents of the Bureau of Fisheries and Forestry Service, customs collectors and their deputies, employees of the Bureau of Education, prosecuting attorneys and their deputies, and all other Federal and Territorial executive officers to enforce the provisions of this act.

Duty to en-
force law.

SEC. 12. [*Act of March 3, 1917 (39 Stat., 1123), extract.*] The payment of the special tax required of wholesale or retail liquor dealers by the United States by any person or persons other than manufacturers or druggists licensed under section five of this act, within the District of Columbia, shall be prima facie evidence that such person or persons are engaged in keeping and sell-

Sale of intoxi-
cating liquors in
District of Co-
lumbia—prima
facie evidence.

ing, offering and exposing for sale alcoholic liquors contrary to the provisions of this act, and a certificate from the collector of internal revenue, his agents, clerks, or deputies showing the payment of such tax and the name or names of person to whom issued, and the names of person or persons, if any, associated with the person to whom such tax receipt is issued, shall be sufficient evidence of the payment of such tax and of the association of such persons for the selling and keeping, offering and exposing for sale of liquors contrary to the provisions of this act in all trials or legal inquiries.

CHAPTER FOUR.

DISTILLED SPIRITS.¹

Sec.	Sec.
3247. Distiller, definition of.	3255 (amended). Brandy made from apples, peaches, or grapes, etc., exemptions.
3248. Distilled spirits, definition of.	5. Act of March 1, 1879. Distilleries of 30 gallons capacity or less; exemptions.
3249. Standard of proof spirits; instruments; etc.	3256. Evading tax; penalty.
607. Act of February 24, 1919. Meters, tanks, pipes, etc.	3257. Distiller defrauding or attempting to defraud; penalties.
621. (Same). Meters, locks, seals at fruit distilleries.	3258. Registry of stills; penalties.
3250. Gallon, definition of.	3259. Notice of intention to carry on business of distiller or rectifier; penalty.
3251 (amended). Tax on distilled spirits.	3260 (amended). Distiller's bonds; penalty.
48. Act of August 27, 1894. Tax on spirits; lien.	602. Act of February 24, 1919. Exemption of ethyl alcohol.
600 (a). Act of February 24, 1919. Tax on distilled spirits.	67. Act of August 28, 1894. Refusal to approve bond in certain cases.
600 (b). (Same.) Spirits in storage; losses; liquors in customs bonded warehouses.	3261. Bond not to be approved until law is complied with; penalty.
600 (c). (Same.) Imported perfumes containing distilled spirits.	3262 (amended). Distiller must be owner in fee simple, or have written consent of owner, etc.
604. (Same.) Floor tax on stock on hand.	3263. Plan of distillery.
605. (Same.) Rectified spirits; gin; floor tax; reduction of proof; cordials or liqueurs; blended whiskies; uniform regulations.	3264 (amended). Surveys.
Act of February 4, 1909. Alcoholic compounds from Porto Rico.	602. Act of February 24, 1919. Exemption of ethyl alcohol.
15. Act of August 10, 1917. Restrictions on use of food materials; importation of distilled spirits prohibited.	3265. Notice by manufacturer of a still. Setting up a still without permit; penalty.
16. (Same.) Commandeering of distilled spirits.	3266. Distilling on certain premises prohibited; penalty.
1. Act of November 21, 1918. Sales for beverages after June 30, 1919; grains, fruits, etc., for making beverages after May 1, 1919, prohibited; importing during war; prohibitory zones about coal mines, etc.	3267. Receiving-cisterns.
601. (Act of February 24, 1919.) Importation of spirits.	3268. Breaking locks, gaining access to cisterns, etc.; penalty.
Act of March 3, 1891. Manufacturer of sorghum sugar authorized to remove spirits in bond, free of tax, for use in manufacture of sugar from sorghum.	3269. Furnaces, tubs, doublers, worm tanks; penalty.
3252. Adding substances to create fictitious proof; penalty.	3270. Apparatus and fastenings.
3253. Tax on spirits removed without deposit in warehouse; assessment.	3271. Distillery warehouses.
3254. Products of distillation containing spirits taxable.	Act of January 8, 1874. Use of warehouse by successors in certain cases.
	3272. When a warehouse becomes unsafe.
	3273. Storekeepers have charge under direction of collector.
	3274. Custody and management of warehouses.
	3275. Distiller to keep distillery accessible; penalty.
	3276 (amended). Authority of revenue officers to enter distilleries. Obstructing officer; penalty.
	3277. Distillers and rectifiers to furnish facilities for examination; penalty.

¹ See Chapter Seven, "National Prohibition."

Sec.

3278. Officers can break up ground or walls in order to examine.
3279. Signs to be put up by distillers and rectifiers; penalty for neglect and for using false signs, etc.
3280. Distillers not to carry on business until the law is complied with, nor within 600 feet of a rectifying establishment.
3281. Carrying on business without giving bond.
16. Act of February 8, 1875. Carrying on distilling without payment of tax.
9. Act of March 1, 1879. Arrest of persons operating illicit distillery.
- 3282 (amended). Vinegar establishments; penalty.
- Act of June 14, 1879. Vinegar factories before March 1, 1879.
3283. No process for distilling between 11 p. m. of Saturday and 1 a. m. of Monday; penalty.
602. Act of February 24, 1919. Exemption of ethyl alcohol.
3284. Using material or removing spirits in absence of storekeeper; penalty.
- 3285 (amended). Emptying fermenting tubs.
602. Act of February 24, 1919. Exemption of ethyl alcohol.
- 3286 (amended). Drawing off water, cleansing worm-tub, etc.; penalty.
- 3287 (amended). Removal of spirits to warehouse.
602. Act of February 24, 1919. Spirit packages, tanks, pipe lines, etc.; withdrawal from receiving cisterns.
3288. Tax-paid spirits not to remain on distillery premises.
3289. Forfeiture of unstamped packages.
3290. Gauger employing distiller, etc., to use brands or perform his duties; penalty.
3291. Gauger's returns.
3292. Fraudulent gauging, etc.; penalty.
- 3293 (amended). Distiller's entry of deposit in warehouse; warehousing bonds.
49. Act of August 27, 1894. Warehousing and transportation bonds.
- 3294 (amended). Withdrawal from warehouse.
50. Act of August 27, 1894. Allowance for leakage, spirits may be regauged, etc.
- 1, 2. Act March 3, 1899. Allowance for loss.
- Act of January 13, 1903.

Sec.

- 51-59. Act of Aug. 27, 1894. General bonded warehouses for distilled spirits, other than fruit brandy.
- Acts of March 3, 1877, and October 18, 1888. Special bonded warehouses for fruit brandy.
- 3295 (amended). Gauging, stamping, and branding spirits removed from warehouse.
3296. Removal, concealment, etc., of spirits contrary to law; penalty.
3297. Alcohol withdrawn for scientific purposes; penalty.
- Act of May 3, 1878, as amended. Same.
- Act of June 4, 1912. Same.
3298. Power of officers to detain packages forty-eight hours.
3299. Forfeiture of spirits unlawfully removed from distillery.
3300. Storekeeper unlawfully removing spirits, or allowing same to be removed, etc.; penalty.
- 3301 (amended). Storekeepers' warehouse books and returns.
3302. Storekeepers to have charge of distillery and keep account of materials, etc.
3303. Distillers' books.
3304. Books to be open to inspection and preserved two years.
3305. False entries, or omitting to keep or produce books; penalty.
3306. Using false weights or measures, or unregistered materials; penalty.
- 3307, 3308. Distillers' returns.
- 3309 (amended). Monthly examination of distiller's returns, assessment, etc., capacity tax.
602. Act of February 24, 1919. Exemption of ethyl alcohol.
6. Act of March 1, 1879. Relief from assessments for deficiencies, etc., in certain cases.
60. Act of August 27, 1894. Assessments to be at rate of tax imposed by act August 28, 1894.
- 3310 (amended). Commencement and suspension of work; penalties.
3311. Reduction of capacity; penalty for tampering with locks, etc.
- 3312, 3313. Stamps.
- 3314 (amended). Accountability for stamp books; export stamps.
606. Act of February 24, 1919. Stamps for rectified spirits; discontinuance of stamps.
- 3315 (amended). Restamping spirits, fermented liquors, tobacco, cigars, etc., when stamps are lost or destroyed.
3316. Officer issuing or permitting use of stamps, contrary to law; penalty.

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17. Act of February 8, 1875. Imitation stamps; penalty.
- 3317 (amended). Rectifiers' returns; rectifiers intending to defraud; penalty.
- Act of July 16, 1892. Rectifier's notice of intention to rectify.
- 3318 (amended). Rectifiers' and wholesale dealers' books and transcripts; penalties.
62. Act of August 27, 1894. Distiller required to keep book.
3319. Purchase of quantities greater than 20 gallons for many persons other than, etc.; penalty.
- 3320 (amended). Gauging and stamping rectified spirits.
1. Act of March 4, 1915. Gauging at rectifying establishments by rectifiers.
3321. (Repealed.)
3322. Filling blanks and affixing and varnishing stamps.
- 3323 (amended). Spirits drawn into new packages to be gauged and branded; forfeiture.
3324. Stamps and brands to be effaced from empty casks; penalties.
2225. Buying or selling spirit casks having inspection marks; penalty.
3326. Changing stamps, shifting spirits, etc.; penalty.
3327. Removal within certain hours from distillery or rectifier's premises; penalty.
3328. (Obsolete.)
- 3329 (amended). Drawback on spirits.
- 3330 (amended). Exportation of spirits withdrawn from bonded warehouses; relanding; penalties.
1. Act of June 9, 1874, as amended. Transportation bond may be taken; change of package.
1. Act of December 20, 1879. Allowance for loss during transportation.

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624. Act of February 24, 1919. Transfer of distilled spirits to tank cars for export.
626. (Same.) Bottling gin in bond for export.
3331. Release of distillery before judgment, in what cases.
- 3332 (amended). Stills, etc., to be destroyed in certain cases.
3333. Burden of proof.
- 3334 (amended). Spirits sold under judicial process subject to tax. Provision where spirits will not sell for price equal to tax.
- 11, 12, and 13. Act March 1, 1879. Imported liquor stamps, etc.
- Act of March 3, 1897. Bottling of distilled spirits in bond.
- Act of March 1, 1913. Shipments into State, etc., in violation of law thereof prohibited.
5. Act of March 3, 1917. Advertisements in certain States; shipments into States prohibiting sale.
1110. Act of October 3, 1917. Construction of section 5, act of March 3, 1917.
1407. Act of February 24, 1919. Extension of act of March 3, 1917, as amended, to District of Columbia.
- Act June 7, 1906. Denatured alcohol.
- Act March 2, 1907. Amendatory of the denatured alcohol act.
- Act of October 3, 1913. Manufacture by farmers of alcohol for denaturation; special tax on manufacturers of stills; storage cisterns.
603. Act of February 24, 1919. Removal for denaturation free of tax; allowance for leakage, etc.

SEC. 3247. Every person who produces distilled spirits, or who brews or makes mash, wort, or wash, fit for distillation or for the production of spirits, or who, by any process of evaporation, separates alcoholic spirit from any fermented substance, or who, making or keeping mash, wort, or wash, has also in his possession or use a still, shall be regarded as a distiller.

Distiller, definition of.

See section 3282 as to vinegar makers and restrictions respecting place of making mash fit for distillation, page 231.

To make one in possession of a still a distiller because he keeps mash, wort, or wash, the mash, wort, or wash must be such as will produce spirits on distillation. (United States v. House and Lot No. 3 Abattoir Place; 25 Int. Rev. Rec., 319; Fed. Cas. No. 15166.)

When regarded as a mash fit for distillation—so-called pomace wine. (T. D. 1949.) Raisin wine where sugar

has been added. (T. D. 2012.) Cider to which sugar has been added to produce fermentation. (T. D. 2675.)

All persons having an interest in the business of distilling or directly aiding in the production of spirits for their use or benefit are distillers, and amenable to the provisions of the Internal Revenue laws. (United States v. Howard, Fed. Cas. No. 15401; 11 Int. Rev. Rec., 119.)

A corporation may carry on the business of distilling. Also, meaning of the word "person" in this chapter. (15 Op. Atty. Gen., 230; 23 Int. Rev. Rec., 141.)

Distilled spirits, definition of.

SEC. 3248. Distilled spirits, spirits, alcohol, and alcoholic spirit, within the true intent and meaning of this act, is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly produced by the fermentation of grain, starch, molasses, or sugar, including all dilutions and mixtures of this substance; and the tax shall attach to this substance as soon as it is in existence as such, whether it be subsequently separated as pure or impure spirit, or be immediately, or at any subsequent time, transferred into any other substance, either in the process of original production or by any subsequent process.

Solidified whiskey. (T. D. 1735.)

Extracting spirits from wood. (T. Ds. 1823, 2331, 2565.)

When tax attaches. (Greenbrier Distillery Co. v. Johnson, 88 Fed., 638; Clay v. Swope, 53 Fed., 999.)

"Pomace" or "raisin" wine produced from mash fit for distillation is an alcoholic spirit. (T. D. 1949.)

T. D. 1949 explained. (T. Ds. 1972, 2002.)

Standard of proof spirits; prevention of frauds.

SEC. 3249. Proof spirit shall be held to be that alcoholic liquor which contains one-half its volume of alcohol of a specific gravity of seven thousand nine hundred and thirty-nine ten thousandths (.7939) at sixty degrees Fahrenheit. And for the prevention and detection of frauds by distillers of spirits, the Commissioner of Internal Revenue may prescribe for use such hydrometers, saccharometers, weighing and gauging instruments, or other means for ascertaining the quantity, gravity, and producing capacity of any mash, wort, or beer used, or to be used, in the production of distilled spirits, and the strength and quantity of spirits subject to tax, as he may deem necessary; and he may prescribe rules and regulations to secure a uniform and correct system of inspection, weighing, marking, and gauging of spirits.

Meters. (Tice v. United States, 99 U. S., 286; Sausser v. United States, 9 Ct. Cls., 338; 11 Id., 538; Finch v. United States, 12 Ct. Cls., 364; 102 U. S. (12 Otto), 269; 26 Int. Rev. Rec., 410.)

By the act of June 8, 1872 (17 Stat., 239), all the provisions of the act of July 20, 1868, touching meters were repealed.

On the 1st of May, 1892, the method of gauging of spirits by rod, theretofore used, was changed to a weighing system, by which the number of wine gallons contents is determined by the weight of the package. Weighing beams are furnished for the use of distilleries and rectifying houses, and their use made obligatory, except at fruit distilleries of a production of less than 10,000 proof gallons during the

season, and at rectifying houses rectifying less than 5,000 proof gallons of spirits annually. (Gaugers' Weighing Manual, 1906.)

Weighing spirits: Commissioner's annual report (1892). (38 Int. Rev. Rec., 13.) Weighing system extended. (Int. Rev. Clr. No. 742; T. D. 1717.)

Circular No. 218, August 1, 1879, authorizes the outage of packages of less than 68 gallons capacity to be 1 gallon where Corey's apparatus for aging whisky and other spirits in distillery warehouses is used, and modifies Circular No. 180 accordingly. (25 Int. Rev. Rec., 245.)

See Gaugers' Manual, 1906, for rule applicable to all apparatus for aging whisky, which has been approved by the Commissioner.

The Internal Revenue Gaugers' Weighing Manual, 1911, embraces regulations and instructions and tables prescribed by the Commissioner of Internal Revenue by virtue of section 3249, Revised Statutes.

What is the meaning of the term "Whisky" under the pure-food act, and the proper regulations for branding various kinds of whisky under the internal-revenue act. (Decision by President Taft, December 27, 1906.)

"Proof" defined. (Louisville Public Warehouse Co. v. Collector of Customs, 49 Fed., 561.)

"Specific gravity" defined. (Louisville Public Warehouse Co. v. Collector of Customs, 49 Fed., 561.)

Directions for taking gravity of distillery beer and slop. (T. D. 1840.)

SEC. 607. [Act of February 24, 1919 (40 Stat., 1057).] Meters, tanks,
pipes, etc.
That the Commissioner, with the approval of the Secretary is hereby authorized to require at distilleries, breweries, rectifying houses, and wherever else in his judgment such action may be deemed advisable, the installation of meters, tanks, pipes, or any other apparatus for the purpose of protecting the revenue, and such meters, tanks, and pipes and all necessary labor incident thereto shall be at the expense of the person on whose premises the installation is required. Any such person refusing or neglecting to install such apparatus when so required by the Commissioner shall not be permitted to conduct business on such premises.

SEC. 621. [Act of February 24, 1919 (40 Stat., 1057).] Meters, locks,
seals at fruit
distilleries.
That the Commissioner, by regulations to be approved by the Secretary, may require the use at each fruit distillery of such spirit meters, and such locks and seals to be affixed to fermenters, tanks, or other vessels and to such pipe connections as may in his judgment be necessary or expedient, and is hereby authorized to assign to any such distillery and to each winery where wines are to be fortified such number of gaugers or storekeeper-gaugers in the capacity of gaugers as may be necessary for the proper supervision of the manufacture of brandy or the making or fortifying of wines subject to tax imposed by this section; and the compensation of such officers shall not exceed \$5 per diem while so assigned, together with their actual and necessary traveling expenses, and also a reasonable allowance for their board bills, to be fixed by the Commissioner, with the approval of the Secretary, but not to exceed \$2.50 per diem for such board bills.

Gallon as used
in sales, defini-
tion of.

SEC. 3250. In all sales of spirits a gallon shall be held to be a gallon of proof spirit, according to the standard prescribed in the preceding section, set forth and declared for the inspection and gauging of spirits throughout the United States.

See definition of gallon, as relates to fermented liquors, in section 21, act of March 1, 1879. (See p. 310.)

Repealed by
sec. 48, act of
Aug. 28, 1894.

SEC. 3251. [*Amended by sec. 1, act of March 3, 1875 (18 Stat., 339).*] [There shall be levied and collected on all distilled spirits produced in the United States on which the tax prescribed by law has not been paid, a tax of ninety cents on each proof gallon, or wine gallon when below proof, to be paid by the distiller, owner, or person having possession thereof before removal from the distillery bonded warehouse: *Provided*, That distilled spirits lawfully deposited in a distillery bonded warehouse prior to the first day of August, eighteen hundred and seventy-two may be withdrawn on payment of the taxes thereon at the rate, within the time, and in the manner provided by law at the time of such deposit.]

Obsolete.

The tax on such spirits shall be collected on the whole number of gauge or wine gallons when below proof, and shall be increased in proportion for any greater strength than the strength of proof spirit, as defined in this title; [and any fractional part of a gallon amounting to one-half gallon or over in a cask or package shall be taxed as a gallon, and any fractional part of a gallon less than one-half gallon in any cask or package shall be exempt from tax]. Every proprietor or possessor of, and every person in any manner interested in the use of, any still, distillery, or distilling apparatus, shall be jointly and severally liable for the taxes imposed by law on the distilled spirits produced therefrom, and the tax shall be a first lien on the spirits distilled, the distillery used for distilling the same, the stills, vessels, fixtures, and tools therein, the lot or tract of land whereon the said distillery is situated, and on any building thereon from the time said spirits are in existence as such until the said tax is paid.

Lien.

Part in brackets repealed by act of August 27, 1894. Fractional parts of a gallon. (See p. 193.)

The stockholders of a corporation engaged in operating a distillery are "persons interested in the use of the distillery," within the meaning of section 3251, which declares that every proprietor and possessor, "and every person in any manner interested in the use of" a distillery, shall be jointly and severally liable for the taxes imposed by law on the distilled spirits produced therefrom. (*United States v. Wolters*, 46 Fed., 509; *United States v. Howard*, 11 Int. Rev. Rec., 119; *Wood v. United States*, 204 Fed., 55; *T. D.* 1836.)

When tax becomes due. (*United States Fidelity & Guaranty Co. of Baltimore v. United States*, 220 Fed., 592.)

Taxability of persons selling warehouse receipts. (*T. D.* 2784.)

Drawing samples from packages after they have been regauged and before arrival of tax-paid stamps is unauthorized. (T. D. 2397.)

SEC. 48. [*Act of August 27, 1894 (28 Stat., 509).*] That on and after the passage of this act there shall be levied and collected on all distilled spirits in bond at that time, or that have been or that may be then or thereafter produced in the United States, on which the tax is not paid before that day, a tax of one dollar and ten cents on each proof gallon, or wine gallon when below proof, and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon: *Provided*, That in computing the tax on any package of spirits all fractional parts of a gallon, less than one tenth, shall be excluded. Tax on distilled spirits.

The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe and furnish suitable stamps denoting the payment of the internal-revenue tax imposed by this section; and until such stamps are prepared and furnished, the stamps now used to denote the payment of the internal-revenue tax on distilled spirits shall be affixed to all packages containing distilled spirits on which the tax imposed by this section is paid; and the Commissioner of Internal Revenue shall, by assessment or otherwise, cause to be collected the tax on any fractional gallon contained in each of such packages as ascertained by the original gauge, or regauge when made, before or at the time of removal of such packages from warehouse or other place of storage; and all provisions of existing laws relating to stamps denoting the payment of internal-revenue tax on distilled spirits, so far as applicable, are hereby extended to the stamps provided for in this section. Fractional gallons.
Stamps.
Collection of the tax.
Laws applicable.

That the tax herein imposed shall be paid by the distiller of the spirits, on or before their removal from the distillery or place of storage, except in case the removal therefrom without payment of tax is authorized by law; and (upon spirits lawfully deposited in any distillery warehouse, or other bonded warehouse, established under internal-revenue laws) within eight years from the date of the original entry for deposit in any distillery warehouse, or from the date of original gauge of fruit brandy deposited in special-bonded warehouse, except in case of withdrawal therefrom without payment of tax as authorized by law. Tax to be paid by the distiller within eight years.

Apple brandy included in term distilled spirits. (United States v. Kidenour, 119 Fed., 411.)

SEC. 600. [*Act of February 24, 1919 (40 Stat., 1057).*] (a) That there shall be levied and collected on all distilled spirits now in bond or that have been or that may be hereafter produced in or imported into the United States, except such distilled spirits as are subject to the tax provided in section 604, in lieu of the internal-revenue taxes now imposed thereon by law, a tax of \$2.20 (or, if Tax on distilled spirits.

withdrawn for beverage purposes or for use in the manufacture or production of any article used or intended for use as a beverage, a tax of \$6.40) on each proof gallon, or wine gallon when below proof, and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon, to be paid by the distiller or importer when withdrawn, and collected under the provisions of existing law.

Spirits in
storage.

(b) That the tax imposed by subdivision (a) on distilled spirits intended for beverage purposes shall not be due or payable on such spirits while stored in any distillery, bonded warehouse, or special or general bonded warehouse, and which, pursuant to any Act of Congress or proclamation of the President of the United States, can not be lawfully sold or removed from any such warehouse during the period of prohibition fixed by such Act or proclamation; and all warehousing bonds or transportation and warehousing bonds conditioned for the payment of tax on any such spirits so stored on the date such prohibition takes effect shall as to all such spirits actually so stored be canceled and discharged, provided the distiller of such spirits shall in lieu of such bonds and prior to their cancellation execute a bond in a penal sum of not less than \$10,000, with sureties satisfactory to the collector of the district, conditioned that the principal shall, during the period of such prohibition, safely keep or cause to be kept in good condition all such spirits and the warehouse in which the same are stored, and shall not remove or suffer to be removed from warehouse, contrary to law, any such spirits during the period of such prohibition; and the bond herein prescribed shall be in such further sum and shall contain such further conditions as the Commissioner, with the approval of the Secretary, may by regulations require. The distiller may, subject to the provisions of this section, be permitted to retain in any such bonded warehouse distilled spirits on which, under the terms of any existing bond, the tax imposed thereon becomes due and payable prior to the date such prohibition takes effect: *Provided*, That on the removal of such prohibition the distiller shall, as to all spirits as to which the bonded period fixed by law has not expired and which remain stored in warehouse, execute new and satisfactory bond in the form required by existing law, conditioned for the payment of the tax on all such spirits; and all provisions of existing law relating to such bonded warehouses, or the storage of spirits therein, or to the execution of new or additional bonds, so far as applicable, shall continue in force as to all distilled spirits rebonded under the provisions of this section.

Allowance for
losses.

Upon the withdrawal of distilled spirits from bonded warehouse, after the period of prohibition has ended, and under the conditions imposed by section 50 of an Act entitled "An Act to reduce taxation, to provide revenue for the support of the Government, and for other pur-

poses," approved August 28, 1894, an allowance for loss by leakage or other unavoidable cause, not exceeding one proof gallon as to packages of a capacity of not less than 40 wine gallons, may be made in addition to that provided in said section 50, as amended; and a like additional allowance of one proof gallon as to each package withdrawn may be made for each period of four months, or fraction thereof, for such spirits as shall have remained in warehouse during the period of prohibition and after the expiration of the maximum leakage period fixed by that section.

Under regulations prescribed by the Secretary, any imported distilled spirits, wines or other liquors which may be in any customs bonded warehouse under the customs laws on the date such prohibition takes effect shall be permitted to remain therein without payment of any taxes or duties thereon, beyond the three-year period provided in section 2971 of the Revised Statutes, during such period of prohibition; and may be exported at any time during such extended period. Any imported spirits, wines, or other liquors as to which the three-year bonded period may expire after the passage of this Act and prior to the date such prohibition takes effect may at the option of the owner remain in bond during such period of prohibition.

Liquors in customs bonded warehouse.

(c) In lieu of the internal-revenue tax now imposed thereon by law there shall be levied and collected upon all perfumes hereafter imported into the United States containing distilled spirits, a tax of \$1.10 per wine gallon, and a proportionate tax at a like rate on all fractional parts of such wine gallon. Such tax shall be collected by the collector of customs and deposited as internal-revenue collections, under such rules and regulations as the Commissioner, with the approval of the Secretary, may prescribe.

Imported perfumes containing distilled spirits.

Eight-year-old spirits in bonded warehouses. (T. D. 2826.)

Rebonding. (T. D. 2806.)

SEC. 604. [*Act of February 24, 1919 (40 Stat., 1057).*] That upon all distilled spirits produced in or imported into the United States upon which the internal-revenue tax now imposed by law has been paid, and which, on the day after the passage of this Act, are held by any person and intended for sale or for use in the manufacture or production of any article intended for sale, there shall be levied, assessed, collected, and paid a floor tax of \$3.20 (if intended for sale for beverage purposes or for use in the manufacture or production of any article used or intended for use as a beverage) on each proof gallon, and a proportionate tax at a like rate on all fractional parts of such proof gallon.

Floor tax on stock on hand.

Distilled spirits held by manufacturers and intended not for sale as spirits, but for manufacture into nonbeverage products, are not subject to tax. (T. D. 2643.)

Regulations. (T. D. 2801.)

Bonds for extending date of payment of floor taxes. (T. D. 2798.)

Spirits in custody of court of bankruptcy. (T. D. 2749.)

Release of spirits seized for floor-tax violation. (T. D. 2877.)

Rectified
spirits.

SEC. 605. [*Act of February 24, 1919 (40 Stat., 1057).*]

That in addition to the tax imposed by this Act on distilled spirits and wines, there shall be levied, assessed, collected, and paid, in lieu of the tax imposed by section 304 of the Revenue Act of 1917, a tax of 30 cents on each proof gallon and a proportionate tax at a like rate on all fractional parts of such proof gallon on all distilled spirits or wines hereafter rectified, purified, or refined in such manner, and on all mixtures hereafter produced in such manner, that the person so rectifying, purifying, refining, or mixing the same is a rectifier within the meaning of section 3244 of the Revised Statutes, as amended: *Provided*, That this tax shall not apply to gin produced by the redistillation of a pure spirit over juniper berries and other aromatics.

Gin.

Floor tax.

Upon all such articles heretofore produced, and which on the day after the passage of this Act are held by any person and intended for sale, there shall be levied, assessed, collected, and paid a floor tax of 15 cents on each proof gallon, and a proportionate tax at a like rate on all fractional parts of each proof gallon; and all such distilled spirits so held and not contained in the distillers' original stamped packages, or in bottles or other containers bearing the distillers' original labels, shall for the purpose of this section be regarded as rectified spirits.

Regulations. (T. D. 2801.)

Bonds for extending date of payment of floor taxes. (T. D. 2798.)

Spirits in custody of court of bankruptcy. (T. D. 2749.)

Wholesale or retail liquor dealers using "hat filter" must pay tax as rectifiers. (T. D. 2953.)

Reduction of
proof.

When the process of rectification is completed and the taxes prescribed by this section have been paid, it shall be unlawful for the rectifier or other dealer to reduce in proof or increase in volume such spirits or wine by the addition of water or other substance; nothing herein contained shall, however, prevent a rectifier from using again in the process of rectification spirits already rectified and upon which the taxes have theretofore been paid.

Reduction of proof. (T. D. 2566.)

Cordials or
liqueurs, blended
whiskies.

The taxes imposed by this section shall not attach to cordials or liqueurs on which a tax is imposed and paid under section 611 or 613, nor to the mixing and blending of wines, where such blending is for the sole purpose of perfecting such wines according to commercial standards, nor to blends made exclusively of two or more pure

straight whiskies aged in wood for a period not less than four years and without the addition of coloring or flavoring matter or any other substance than pure water and if not reduced below ninety proof: *Provided*, That such blended whiskies shall be exempt from tax under this section only when compounded under the immediate supervision of a revenue officer, in such tanks and under such conditions and supervision as the Commissioner, with the approval of the Secretary, may prescribe.

All distilled spirits or wines taxable under this section shall be subject to uniform regulations concerning the use thereof in the manufacture, blending, compounding, mixing, marking, branding, and sale of whisky and rectified spirits, and no discrimination whatsoever shall be made by reason of a difference in the character of the material from which same may have been produced. Uniform regulations.

The business of a rectifier of spirits shall be carried on, and the tax on rectified spirits shall be paid, under such rules, regulations, and bonds as may be prescribed by the Commissioner, with the approval of the Secretary.

All products of rectification from molasses, spirits, or spirits other than grain at rectifying houses, will be marked and branded in the same manner as spirits derived from grain. (T. D. 2548.)

Distilled spirits; marking, branding, and stamping. (T. D. 2560.)

Definition of rectifier. (Sec. 3244, R. S., subdivision third.)

Whoever violates any of the provisions of this section shall be deemed to be guilty of a misdemeanor and, upon conviction, shall be fined not more than \$1,000 or imprisoned not more than two years, and shall, in addition, be liable to double the tax evaded, together with the tax, to be collected by assessment or on any bond given. Penalties.

[*Act of February 4, 1909 (35 Stat. 594).*] That upon bay rum, or any article containing alcohol, hereafter brought from Porto Rico into the United States for consumption or sale there shall be paid a tax on the spirits contained therein of one dollar and ten cents per proof gallon, to be collected at the port of entry by the collector of internal revenue of the district in which the port is located. The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is hereby authorized to make such rules and regulations as may be necessary to carry this Act into effect. Bay rum from Porto Rico.

Regulations February 15, 1909. (Cir. 734; T. D. 1462.)

Bay rum brought from Porto Rico prior to this act was taxable under then existing laws. (*Jordan v. Roche*, 228 U. S., 486; T. D. 1840.)

DISTILLED SPIRITS.

Rates of tax on spirits under the different laws which have been in force.

	Tax per gallon.	Acts imposing tax.	Acts repealing tax.	Length of time rates were in force.
				<i>Months.</i>
Spirits distilled from whatever materials.	\$0.20	July 1, 1862	Mar. 7, 1864	18
Do.....	.60	Mar. 7, 1864	June 30, 1864	4
Spirits distilled from whatever materials, except grapes.	1.50	June 30, 1864	Dec. 22, 1864	6
Spirits distilled from whatever materials, except grapes, to Apr. 1, 1865, and from whatever materials, except apples, grapes, and peaches, after Apr. 1, 1865.	2.00	Dec. 22, 1864	July 20, 1868	43
Do.....	.25	June 30, 1864	Mar. 3, 1865	9
Do.....	.50	Mar. 3, 1865	July 13, 1866	17
Spirits distilled from apples or peaches.	1.50	.....do.....	.....do.....	17
Spirits distilled from apples, grapes, or peaches.	2.00	July 13, 1866	Mar. 2, 1867	6
Spirits distilled from apples or peaches.	2.00	Mar. 2, 1867	July 20, 1868	17
Spirits distilled from grapes.	1.00	.....do.....	.....do.....	17
Spirits distilled from whatever materials.	.50	July 20, 1868	June 6, 1872	48
Do.....	.70	June 6, 1872	Mar. 3, 1875	31
Do.....	.90	Mar. 3, 1875	Aug. 28, 1894	234
Do.....	1.10	Aug. 28, 1894	Oct. 3, 1917	276
Spirits for beverage purposes.	3.20	Oct. 3, 1917	Feb. 24, 1919	72
Do.....	6.40	Feb. 24, 1919	.....	.....
Spirits for nonbeverage purposes.	2.20	Oct. 3, 1917	.....	.....
Do.....	.....	Feb. 24, 1919	.....	.....

The act of July 1, 1862, went into operation September 1, 1862.

The act of June 30, 1864, provided that a tax of \$1.50 per gallon should be levied and collected on all distilled spirits, except brandy distilled from grapes, from July 1, 1864, to February 1, 1865; on and after February 1, 1865, the tax should be \$2 per gallon.

The act of December 22, 1864, provided that the tax of \$2 per gallon should take effect January 1, 1865, instead of February 1, 1865.

So far as the other acts referred to relate to the tax on spirits, they went into operation immediately on their passage, except the following: Act of March 3, 1865, took effect April 1, 1865; act of July 13, 1866, took effect September 1, 1866; act of June 6, 1872, took effect August 1, 1872.

The act of July 20, 1868, made the tax 50 cents per gallon, to be paid by stamps; but there was imposed on the distiller by that act an additional tax on his product of \$4 per barrel of 40 proof gallons, which made the tax really 10 cents per gallon additional, or 60 cents per gallon. There was also a tax on the grain-mashing capacity of the distillery, and a further requirement of reimbursement by the distiller of the sums paid by the Government for gaugers' fees and storekeepers' salaries, altogether amounting to about 7 cents per gallon of the aggregate product of spirits, thus making the whole tax charged upon the distiller about 67 cents per gallon.

By the act of June 6, 1872, taking effect August 1, 1872, the barrel and grain capacity taxes and the reimbursement provision were repealed, and the tax was made 70 cents per gallon, being only an actual addition of about 3 cents per gallon. By the act of March 3, 1875, increase was made to 90 cents per gallon. August 28, 1894, the tax was again increased to \$1.10 per gallon.

Stamps first required in payment of tax on spirits by the act of July 20, 1868 (15 Stat., 125), and went into use November 2, 1868. (Circular of September 17, 1868.)

The act of Congress approved July 20, 1868, imposing a tax on distilled spirits, is not unconstitutional. The tax imposed upon the distiller is in the nature of an excise, and the only limitation upon the power of Congress in the imposition of taxes of this character is that they shall be "uniform throughout the United States." (*United States v. Singer*, 15 Wall., 111; *United States v. Van Buskirk*, 15 Wall., 123.)

The tax becomes due as soon as the spirits are produced. (*United States Fidelity & Guaranty Co. v. United States*, 220 Fed., 592; T. D. 2103.)

Exemptions from tax.—Alcohol withdrawn for scientific purposes. (Sec. 3297, p. 257.)

Spirits used in the fortification of sweet wine. (P. 326.)

Spirits used in the manufacture of sugar from sorghum. (P. 206.)

Spirits purchased for the United States for Government use. (Sec. 3464, p. 603.)

Spirits denatured in accordance with the denatured alcohol act of June 7, 1906, amended. (P. 298.)

Theory of Government supervision over distilleries. (*United States v. Parker, Mason & Co.*, 21 Int. Rev. Rec., 245.)

Persons having interest in distillery liable. (*United States v. Howard*, 11 Int. Rev. Rec., 119.)

Lien can not be divested by transfer of title. (*Milan Distilling Co. v. Tillson*, 26 Int. Rev. Rec., 5.)

Soakage.—The soakage of spirits into distiller's packages, not being included in the basis of computation, is not a part of the quantity upon which the tax is levied, and, consequently, when extracted from the empty barrels, it is spirits on which the lawful tax has not been paid, and is subject to taxation. (*Corning & Co. v. Hunter*, 86 Fed., 913; T. D. 19191.)

Recovery of spirits from empty packages in bottling warehouses. (Cir. No. 662; T. D. 818.)

Reclaiming spirits from empty spirit packages. (T. D. 1608; T. D. 1627; T. D. 2565.)

Extracting alcohol from empty packages. (*Philadelphia Extracting Co. v. McCoach*, T. D. 1823; *Western Extracting Co. v. Smietanka*, 234 Fed., 229; T. D. 2331.)

Attorney General declines to express an opinion in regard to certain orders of the Commissioner relative to extracting alcohol from empty packages. (28 Op. Atty. Gen., 596.)

A corporation may carry on the business of distilling in its corporate capacity. (15 Op. Atty. Gen., 230; 23 Int. Rev. Rec., 141.)

Stockholders in a distilling company individually liable for taxes due from the corporation. (15 Op. Atty. Gen., 559; 23 Int. Rev. Rec., 141.)

Stockholders in distilling corporation. (*Wood v. United States*, 204 Fed., 55; T. D. 1836.)

Municipal corporations engaged in distilling liable to tax. (*Salt Lake City v. Hollister*, 118 U. S., 256; 32 Int. Rev. Rec., 158.)

Payment of tax on forfeited spirits by the marshal out of proceeds of sale (sec. 3458) discharges liability of sureties on distillers' warehousing bond for tax. (*United States v. Ulrich*, 111 U. S., 38; 30 Int. Rev. Rec., 111.)

Primarily the distiller is liable for the taxes due on the spirits distilled and, in case of default, his sureties are also jointly liable for the same. The tax must be paid in the name of the distiller, and the stamp, which is in the nature of a receipt, can only be issued to him. (*Harkins v. Willard*, 146 Fed., 703; T. D. 1030.)

The laws imposing taxes on distilled spirits are coextensive with jurisdiction of United States. (Sec. 3448, p. 590.)

Domestic whisky returned from abroad. (26 Int. Rev. Rec., 50; 27 Id., 333.)

Domestic spirits exported from the United States subject to rate of duty equal to internal-revenue tax upon re-importation of same into this country. (See sec. 2500.)

Where there is presumptive evidence that it was the intention of the parties to return the spirits to United States, entry under section 2500 not allowed. (35 Int. Rev. Rec., 358.)

[For opinion of Attorney General as to what constitutes an exportation within contemplation of law see references under sec. 3330.]

Domestic spirits returned to the United States and not admitted under section 2500 as reimported spirits subject to internal-revenue tax on full quantity contained in packages at time of withdrawal from distillery warehouse.

The location of a distillery in Indian Territory on land where title is extinct is in contravention of law. (22 Op. Atty. Gen., 232; T. D. 20162.)

Bay rum from Porto Rico. (T. D. 404; Newhall v. Jordan, 149 Fed., 586; Anderson v. Newhall, 161 Fed., 906; Roche v. Jordan, 175 Fed., 234; Jordan v. Roche, 228 U. S., 436; T. D. 1849.)

AN ACT To provide further for the national security and defense by encouraging the production, conserving the supply, and controlling the distribution of food products and fuel. Act of August 10, 1917 (40 Stat., 276).

Restrictions on
distillation of
spirits.

SEC. 15. That from and after thirty days from the date of the approval of this act no foods, fruits, food materials, or feeds shall be used in the production of distilled spirits for beverage purposes: *Provided*, That, under such rules, regulations, and bonds as the President may prescribe, such materials may be used in the production of distilled spirits exclusively for other than beverage purposes, or for the fortification of pure sweet wines as defined by the act entitled "An act to increase the revenue, and for other purposes," approved September eighth, nineteen hundred and sixteen. Nor shall there be imported into the United States any distilled spirits. Whenever the President shall find that limitation, regulation, or prohibition of the use of foods, fruits, food materials, or feeds in the production of malt or vinous liquors for beverage purposes, or that reduction of the alcoholic content of any such malt or vinous liquor is essential in order to assure an adequate and continuous supply of food, or that the national security and defense will be subserved thereby, he is authorized, from time to time, to prescribe and give public notice of the extent of the limitation, regulation, prohibition, or reduction so necessitated. Whenever such notice shall have been given and shall remain unrevoked no person shall, after a reasonable time prescribed in such notice, use any foods, fruits, food materials, or feeds in the production of malt or vinous liquors, or import any such liquors except under license issued by the President and in compliance with rules and regulations determined by him governing the production and importation of such liquors and the alco-

Importation of
distilled spirits
prohibited.

holic content thereof. Any person who wilfully violates the provisions of this section, or who shall use any foods, fruits, food materials, or feeds in the production of malt or vinous liquors, or who shall import any such liquors, without first obtaining a license so to do when a license is required under this section, or who shall violate any rule or regulation made under this section, shall be punished by a fine not exceeding \$5,000 or by imprisonment for not more than two years, or both: *Provided further*, That nothing in this section shall be construed to authorize the licensing of the manufacture of vinous or malt liquors in any State, Territory, or the District of Columbia, or any civil subdivision thereof, where the manufacture of such vinous or malt liquor is prohibited.

A PROCLAMATION.

Whereas, under and by virtue of an act of Congress entitled "An act to provide further for the national security and defense by encouraging the production, conserving the supply, and controlling the distribution of food products and fuel," approved by the President on August 10, 1917, it is provided in section 15, among other things, as follows:

"Whenever the President shall find that limitation, regulation, or prohibition of the use of foods, fruits, food materials, or feeds in the production of malt or vinous liquors for beverage purposes, or that reduction of the alcoholic content of any such malt or vinous liquor, is essential, in order to assure an adequate and continuous supply of food, or that the national security and defense will be subserved thereby, he is authorized, from time to time, to prescribe and give public notice of the extent of the limitation, regulation, prohibition, or reduction so necessitated. Whenever such notice shall have been given and shall remain unrevoked, no person shall, after a reasonable time prescribed in such notice, use any foods, fruits, food materials, or feeds in the production of malt or vinous liquors, or import any such liquors except under license issued by the President and in compliance with rules and regulations determined by him governing the production and importation of such liquors and the alcoholic content thereof."

Now, therefore, I, Woodrow Wilson, President of the United States of America, by virtue of the powers conferred on me by said act of Congress, do hereby find and determine that it is essential, in order to assure an adequate and continuous supply of food, in order to subserve the national security and defense, and because of the increasing requirements of war industries for the fuel productive capacity of the country, the strain upon transportation to serve such industries, and the shortage of labor caused by the necessity of increasing the armed forces of the United States, that the use of sugar, glucose, corn, rice or any other foods, fruits, food materials and feeds in the production of malt liquors, including near beer, for beverage purposes be prohibited. And by this proclamation I prescribe and give public notice that on and after October 1, 1918, no person shall use any sugar, glucose, corn, rice or any other foods, fruits, food materials or feeds, except hops already made, in the production of malt liquors, including near beer, for beverage purposes, whether or not such malt liquors contain alcohol, and on and after December 1, 1918, no person shall use any sugar, glucose, corn, rice or any

other foods, fruits, food materials or feeds, including malt, in the production of malt liquors, including near beer, for beverage purposes, whether or not such malt liquors contain alcohol.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done in the District of Columbia this 16th day of September, in the year of our Lord one thousand nine hundred and eighteen, and of the Independence of the United States of America the one hundred and forty-third.

WOODROW WILSON.

By the President:

ROBERT LANSING,
Secretary of State.

RULES AND REGULATIONS GOVERNING THE PRODUCTION OF MALT LIQUORS AND THE ALCOHOLIC CONTENT THEREOF.

Promulgated by the President under the authority of section 15 of the act of Congress approved August 10, 1917, entitled "An act to provide further for the national security and defense by encouraging the production, conserving the supply, and controlling the distribution of food products and fuel, and in accordance with proclamations, concerning malt liquor, issued December 8, 1917, and September 16, 1918.

Rule 1. During the period from October 1, 1918, to December 1, 1918, only malt and hops shall be used in the production of any malt liquor, provided that any dextrinous or other sirups which have been specially prepared for the manufacture of near beer and which are in the licensee's possession or shipped to him prior to October 1, 1918, may be used in the manufacture of such near beer.

Rule 2. The limitations on quantity of malt and hops used in the manufacture of beer or near beer contained in the proclamation of December 8, 1917, shall not apply during the period from October 1, 1918, to December 1, 1918, but nothing in this rule shall be construed to modify in any way the limitation on alcoholic content of malt liquor prescribed by said proclamation of December 8, 1917.

Rule 3. No person shall import any malt liquor for beverage purposes on and after December 1, 1918.

Rule 4. The prohibitions contained in the proclamation of September 16, 1918, shall not apply to material actually in process of manufacture prior to the dates named in said proclamation, but the fact that material is on hand in the brewery or factory shall not authorize any exception to be made other than that referred to in rule 1.

The foregoing regulations are approved on this 30th day of September, 1918, superseding all prior regulations inconsistent herewith.

WOODROW WILSON.

Extracts may be made from nonbeverage alcohol. (T. D. 2567.)

Instructions relative to the sale and use of distilled spirits for other than beverage purposes under the food control act of August 10, 1917. (T. Ds. 2520, 2559, 2576, 2788, 2854.)

The importation of distilled spirits prohibited after September 9, 1917. (T. D. 37315.)

Dilute saccharine liquid derived from sawdust, etc., is prohibited material. (T. D. 2526.)

Wines containing over 24 per cent of alcohol by volume classed as distilled spirits. (T. D. 2748.)

Use and sale of nonbeverage and homeopathic attenuations made therewith. (T. D. 2699.)

Regulations as to use of food materials in production of distilled spirits. (T. D. 2642.)

Instructions as to procedure in securing permits and giving bonds for sale and use of distilled spirits and wines for other than beverage purposes, including wines for sacramental purposes. (T. Ds. 2940, 2946.)

This section is not a customs law, but a prohibition law enacted under police power of Congress, and court can not impose as an additional punishment the forfeiture of the vehicle used, under another statute. (*United States v. One Ford Automobile and Fourteen Packages of Distilled Spirits*, 259 Fed., 804.)

SEC. 16. That the President is authorized and directed to commandeer any or all distilled spirits in bond or in stock at the date of the approval of this act for redistillation, in so far as such redistillation may be necessary to meet the requirements of the Government in the manufacture of munitions and other military and hospital supplies, or in so far as such redistillation would dispense with the necessity of utilizing products and materials suitable for foods and feeds in the future manufacture of distilled spirits for the purposes herein enumerated. The President shall determine and pay a just compensation for the distilled spirits so commandeered; and if the compensation so determined be not satisfactory to the person entitled to receive the same such person shall be paid seventy-five per centum of the amount so determined by the President and shall be entitled to sue the United States to recover such further sum as, added to said seventy-five per centum, will make up such amount as will be just compensation for such spirits, in the manner provided by section twenty-four, paragraph twenty, and section one hundred and forty-five of the Judicial Code.

Commandeering of distilled spirits.

EXECUTIVE ORDER.

Acting under the authority of section 2 of the act of Congress approved August 10, 1917, entitled "An act to provide further for the national security and defense by encouraging the production, conserving the supply, and controlling the distribution of food products and fuel," which section reads in part as follows: "That in carrying out the purposes of this act the President is authorized * * * to utilize any department or agency of the Government and to co-ordinate their activities so as to avoid any preventable loss or duplication of effort or funds"; because the office of the Commissioner of Internal Revenue in the Treasury Department is now regulating the production of distilled spirits through the United States and is in control of the machinery necessary to enforce effectively the provisions of sections 15 and 16 of the aforesaid act of August 10, 1917, relating to distilled spirits.

Now, in order more effectively to enforce the provisions of said act and to avoid preventable duplication of effort and funds, I hereby direct that the Treasury Department shall henceforth supervise, direct, and carry into effect the provisions of sections 15 and 16 of said act of August 10, 1917, and exercise the powers and authority therein given to the President, subject to such instructions and regulations as may from time to time be issued by the President. For this purpose the Secretary of the Treasury is hereby authorized to assign such duties to the Commissioner of Internal Revenue, the internal-revenue officers of the United States, and the Division of Customs, and to

employ such additional assistants as he may deem necessary therefor.

The Executive order dated August 10, 1917, providing for the organization of the United States Food Administration, so far as it is inconsistent herewith, is hereby modified.

WOODROW WILSON.

WASHINGTON, D. C., 2 September, 1917.

Fact that manufacture of any beverage is prohibited will not relieve producer from liability to tax. (T. D. 2841.)

Sales for beverages after June 30, 1919, prohibited.

SEC. 1. [*Act of November 21, 1918 (40 Stat. 1046).—Extract.*]

That after June thirtieth, nineteen hundred and nineteen, until the conclusion of the present war and thereafter until the termination of demobilization, the date of which shall be determined and proclaimed by the President of the United States, for the purpose of conserving the man power of the Nation, and to increase efficiency in the production of arms, munitions, ships, food, and clothing for the Army and Navy, it shall be unlawful to sell for beverage purposes any distilled spirits, and during said time no distilled spirits held in bond shall be removed therefrom for beverage purposes except for export. After May first, nineteen hundred and nineteen, until the conclusion of the present war and thereafter until the termination of demobilization, the date of which shall be determined and proclaimed by the President of the United States, no grains, cereals, fruit or other food product shall be used in the manufacture or production of beer, wine, or other intoxicating malt or vinous liquor for beverage purposes. After June thirtieth, nineteen hundred and nineteen, until the conclusion of the present war and thereafter until the termination of demobilization, the date of which shall be determined and proclaimed by the President of the United States, no beer, wine, or other intoxicating malt or vinous liquor shall be sold for beverage purposes except for export. The Commissioner of Internal Revenue is hereby authorized and directed to prescribe rules and regulations, subject to the approval of the Secretary of the Treasury, in regard to the manufacture and sale of distilled spirits and removal of distilled spirits held in bond after June thirtieth, nineteen hundred and nineteen, until this Act shall cease to operate, for other than beverage purposes; also in regard to the manufacture, sale, and distribution of wine for sacramental, medicinal, or other than beverage uses. After the approval of this Act no distilled, malt, vinous, or other intoxicating liquors shall be imported into the United States during the continuance of the present war and period of demobilization: *Provided*, That this provision against importation shall not apply to shipments en route to the United States at the time of the passage of this Act.

Grains, fruits, etc., for making beverages after May 1, 1919, prohibited.

Importing during war.

Any person who violates any of the foregoing provisions shall be punished by imprisonment not exceeding one year, or by fine not exceeding \$1,000, or by both

such imprisonment and fine: *Provided*, That the President of the United States be, and hereby is, authorized and empowered, at any time after the passage of this Act, to establish zones of such size as he may deem advisable about coal mines, munition factories, shipbuilding plants, and such other plants for war material as may seem to him to require such action whenever in his opinion the creation of such zones is necessary to, or advisable in, the proper prosecution of the war, and that he is hereby authorized and empowered to prohibit the sale, manufacture, or distribution of intoxicating liquors in such zones, and that any violation of the President's regulations in this regard shall be punished by imprisonment for not more than one year, or by fine of not more than \$1,000, or by both such fine and imprisonment: *Provided further*, That nothing in this Act shall be construed to interfere with the power conferred upon the President by section fifteen of the food-control Act, approved August tenth, nineteen hundred and seventeen (Public Numbered Forty, Sixty-fifth Congress).

Prohibitory
zones about
coal mines, etc.

Regulations relative to export of distilled spirits and wines, and use of wines or liquors for medicinal, sacramental, or nonbeverage purposes. (T. Ds. 2881, 2959.)

Instructions as to procedure in securing permits and giving bonds for sale and use of distilled spirits and wines for other than beverage purposes, including wines for sacramental purposes. (T. Ds. 2940, 2946.)

The act of November 21, 1918, is not in violation of the fifth amendment to the Constitution, is not void by reason of passing of the war emergency, was not repealed by the adoption of the eighteenth amendment to the Constitution, and did not expire by limitation in that the war is at an end, the President not having determined and proclaimed the date of termination of demobilization. (*Hamilton v. Kentucky Distilleries & Warehouse Co.*; *Dryfoos v. Edwards*. Decided by United States Supreme Court December 15, 1919, but not yet officially reported.)

Indictment charging violation of this section by manufacture of malt liquor having alcoholic content of one-half of one per cent or more, but not alleging same to be intoxicating, is subject to demurrer. (*United States v. Standard Brewery*, 260 Fed., 486.)

Congress has constitutional power to prohibit manufacture and sale of intoxicating liquors during war. (*United States v. Baumgartner*, 259 Fed., 722.)

This act is constitutional. (*United States v. Ranier Brewing Co.*, 259 Fed., 359.)

This section, whether construed to prohibit manufacture of any beer or wine, or only such as is intoxicating, is constitutional. (*Jacob Hoffman Brewing Co. v. McElligott*, 259 Fed., 321.)

This act does not prohibit manufacture or sale of beer which is not intoxicating. (*United States v. Petts*, 260 Fed., 663.)

Ruling on demurrer to information charging violation of this act by manufacturer of beer for beverage purposes, where purpose was to obtain construction of statute and ruling as to whether particular beverage was within this prohibition. (*United States v. Bergner & Engel Brewing Co.*, 260 Fed., 764.)

Vehicle or animal committed by owner to possession of third person, who uses it in removal of goods or commodi-

ties to defraud United States of tax imposed thereon, is subject to forfeiture though owner had no knowledge of illegal use. (*Logan v. United States*, 260 Fed., 743.)

Act held constitutional, as within war powers of Congress in dealing with conditions growing out of termination of hostilities and demobilization of army. (*Scatina v. Caffey*, 260 Fed., 756.)

Information charging violation of this act need not aver that beer alleged to have been manufactured or sold was intoxicating. (*United States v. Pittsburgh Brewing Co.*, 260 Fed., 762.)

This act does not violate tenth amendment to Federal Constitution. (*United States v. Minery*, 259 Fed., 707.)

Eighteenth amendment to the Federal Constitution does not invalidate act of November 21, 1918, upon ground that prohibition legislation is precluded until 1920. (*Id.*)

This act is applicable to sale on July 8, 1919, since no treaty had then been signed with Austria and the army had not been entirely demobilized. (*Id.*)

This act prevents only the manufacture and sale of beer, wine, etc., which are in fact intoxicating. (*Jacob Hoffman Brewing Co. v. McElligott*, 259 Fed., 825; *United States v. Baumgartner*, 259 Fed., 722.)

Importation of spirits.

SEC. 601. [*Act of February 24, 1919 (40 Stat., 1057).*] That no distilled spirits produced after October 3, 1917, shall be imported into the United States from any foreign country, or from the Virgin Islands (unless produced from products the growth of such islands, and not then into any State or Territory or District of the United States in which the manufacture or sale of intoxicating liquor is prohibited), or from Porto Rico, or the Philippine Islands. Under such rules, regulations, and bonds as the Secretary may prescribe, the provisions of this section shall not apply to distilled spirits imported for other than (1) beverage purposes or (2) use in the manufacture or production of any article used or intended for use as a beverage.

Withdrawal free of tax of spirits used in the manufacture of sugar from sorghum.

[*Act of March 3, 1891 (26 Stat., 1050).*] * * * That any manufacturer of sugar from sorghum may remove from distillery warehouses to factories used solely for the manufacture of such sugar from sorghum distilled spirits in bond free of tax, to be used solely in such manufacture of sugar from sorghum; that all distilled spirits removed as herein authorized shall be of an alcoholic strength of not less than one hundred and sixty per centum proof, and may be removed, stored, and used in the manufacture of sugar from sorghum, and when so used may be recovered by redistillation in the sugar factory of such sugar manufacturer under such bonds, rules, and regulations for the protection of the revenue and the accomplishment of the purposes herein expressed as the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury may prescribe.

Penalty.

Any person who removes or uses distilled spirits in violation of this provision, as [or] the regulations issued pursuant thereof, shall, on conviction thereof, be fined not less than one thousand dollars nor more than five thousand dollars for each offense, and the spirits and the

premises on which such spirits are used shall be forfeited to the United States. * * *

SEC. 3252. Every person who adds or causes to be added any ingredient or substance to any distilled spirits before the tax is paid thereon for the purpose of creating a fictitious proof, shall be fined not less than one hundred dollars nor more than one thousand dollars for each cask or package so adulterated, and imprisoned not less than three months nor more than two years; and every such cask or package, with its contents, shall be forfeited to the United States.

Adding substances to create fictitious proof; penalty.

SEC. 3253. The tax upon any distilled spirits removed from the place where they were distilled and not deposited in bonded warehouse as required by law, shall, at any time, when knowledge of such fact is obtained by the Commissioner of Internal Revenue, be assessed by him upon the distiller of the same, and returned to the collector, who shall immediately demand payment of such tax, and, upon the neglect or refusal of payment by the distiller, shall proceed to collect the same by distraint. But this provision shall not exclude any other remedy or proceeding provided by law.

Tax on spirits removed without deposit in warehouse; assessment.

This section also applies to fruit distillers who sell spirits without payment of tax.

See also section 8, act of March 3, 1877, providing similar remedy in certain cases as to brandy made from apples, peaches, or grapes, page 253.

Change in regulations No. 7 relative to method of testing fusel oil before removal from distilleries. (T. D. 2336.)

SEC. 3254. All products of distillation, by whatever name known, which contain distilled spirits or alcohol, on which the tax imposed by law has not been paid, shall be considered and taxed as distilled spirits.

Products of distillation containing spirits.

SEC. 3255. [Amended by act of June 3, 1896 (29 Stat., 195), act of March 2, 1911 (36 Stat., 1014), sec. 404, act of September 8, 1916 (39 Stat., 788), and sec. 625, act of February 24, 1919 (40 Stat., 1057).] The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may exempt distillers of brandy made exclusively from apples, peaches, grapes, pears, pineapples, oranges, apricots, berries, plums, pawpaws, persimmons, prunes, figs, or cherries from any provision of this title relating to the manufacture of spirits, except as to the tax thereon, when in his judgment it may seem expedient to do so: *Provided*, That where, in the manufacture of wine, artificial sweetening has been used the wine or the fruit pomace residuum may be used in the distillation of brandy, and such use shall not prevent the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, from exempting such distiller from any provision of this title relating to the manufacture of spirits, except as to the tax thereon, when in his judgment it may seem expedient to do so: *And provided further*, That the distillers mentioned in this section may add to not less than five hundred gallons (or ten barrels) of

Brandy made from apples, peaches, grapes, etc.; exemptions.

grape cheese not more than five hundred gallons of a sugar solution made from cane, beet, starch, or corn sugar, 95 per centum pure, such solution to have a saccharine strength of not to exceed 10 per centum, and may ferment the resultant mixture on a winery or distillery premises, and such fermented product shall be regarded as distilling material.

Cir. No. 592. (T. D. 288.)

Act of March 3, 1877, relating to the production of grape brandy (special bonded warehouses), page 251.

Act of October 18, 1888, relating to production of brandy made from apples or peaches, page 254.

Distillers of brandy made exclusively from apples, peaches, grapes, pears, pineapples, oranges, apricots, berries, prunes, figs, or cherries are not required to have a sign, furnish a plan of the distillery, or provide a warehouse. They are exempted from certain requirements as to the fermenting period and fermenting tubs and other general provisions of the law as set forth in the regulations on the subject. (See Regulations No. 7, revised July 10, 1914; T. D. 2373.)

Internal-revenue tax on all fruit brandy is due on the 10th of the month following the month of production.

Assessing tax on fruit brandy. (Cir. No. 657; T. D. 782; T. D. 835.)

Collection of tax on fruit brandy. (Cir. No. 670; T. D. 900.)

Adding coloring matter to brandy for export. (T. D. 2342.)

Construction of fruit brandy distilleries. (T. D. 2491.)

Distillers having a daily spirit-producing capacity of 30 gallons proof spirits or less; exemptions.

SEC. 5. [Act of March 1, 1879 (20 Stat., 327).] * * * The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may exempt distillers whose distilleries have a daily spirit-producing capacity of thirty gallons of proof spirits, or less, from such of the provisions of existing law in regard to grain distilleries which require the process of distillation to be carried on through continuous closed vessels and pipes, or which require the cisterns to be connected with the outlet of the worm or condenser by suitable pipes or other apparatus or which require certain clear spaces about the cisterns and other vessels of the distillery, or which require the distillers to have or furnish a plan of the distillery, as he may deem proper.

Under the authority given by this section distillers whose distilleries have a daily spirit-producing capacity of 30 gallons of proof spirits or less, as estimated and determined by a survey made according to law, are exempted—

(1) From so much of the provisions of section 3263 as require a plan of the distillery to be had or furnished by the distiller;

(2) From so much of the provisions of sections 3267 and 3269 as require that the open or clear spaces above, below, or around the receiving cisterns, wood still, doubler, and worm tanks shall be of any greater extent or dimensions than is necessary to afford a clear, distinct, and uninterrupted view around, above, and beneath each of said vessels or utensils.

Evading tax; penalty.

SEC. 3256. Whenever any person evades, or attempts to evade, the payment of the tax on any distilled spirits, in

any manner whatever, he shall forfeit and pay double the amount of the tax so evaded or attempted to be evaded.

See section 3296, page 256.

The penalty of double the amount of the tax imposed by section 3256 is not assessable, and should not be imposed and collected by a collector, but should be recovered by indictment or other form of action. (T. D. 858.)

Equalizing in warehouse. (T. D. 1681.)

Equalizing losses of bonded spirits. (T. D. 2008.)

SEC. 3257. Whenever any person engaged in carrying on the business of a distiller defrauds or attempts to defraud the United States of the tax on the spirits distilled by him, or of any part thereof, he shall forfeit the distillery and distilling apparatus used by him, and all distilled spirits and all raw materials for the production of distilled spirits found in the distillery and on the distillery premises, and shall be fined not less than five hundred dollars nor more than five thousand dollars, and be imprisoned not less than six months nor more than three years.

Distiller defrauding or attempting to defraud United States of tax on spirits.

Forfeiture.

Penalty.

See section 3281 and citations thereunder. See section 3230, as to nolle prosequi of prosecutions under section 3257.

Taxability of persons selling warehouse receipts. (T. D. 2784.)

It is sufficient in the indictment to allege the offense in the language of the statute where this so defined the act or acts constituting the offense as to give to the defendant information of the nature and cause of the accusation. (United States v. Staton, 25 Int. Rev. Rec., 10.)

Information under sections 3257, 3281, 3305, 3453, and 3456, Revised Statutes. No proof to overcome the denials in the answer. (United States v. One Distillery, Fruitvale Wine & Fruit Co., 174 U. S., 149.)

It was not necessary to aver in the information that the distilled spirits found on the claimant's distillery premises and seized were distilled by him or were the product of his distillery, or that the distillery apparatus was wrongfully used.

The only necessary elements are that the person shall be engaged in carrying on the business of a distiller, and that he shall defraud or attempt to defraud the United States of the tax on the spirits distilled by him. The forfeiture is to be enforced by a civil suit in rem and the fine and imprisonment in a criminal proceeding. (Coffey v. United States, 32 Int. Rev. Rec., 39; 116 U. S., 427.)

One who has been fined and imprisoned under section 3257, for illicit distilling, is estopped to claim as his own the distillery and spirits forfeited thereby; and such a conviction is not a bar to the proceeding in rem required by section 3453 to declare and perfect the forfeiture. (United States v. Three Copper Stills, etc., 47 Fed., 495.)

Forfeiture of a distillery is not a bar to the prosecution of a stockholder personally. (Wood v. United States, 204 Fed., 55.)

Forfeiture may be contested by claimant of the property or sureties on its bond in case a bond is given. (United States v. One Distillery and Fixtures, etc., 193 Fed., 720.)

The provisions of this section apply to fruit distillers. (United States v. Ridenour, 119 Fed., 411.)

SEC. 3258. Every person having in his possession or custody, or under his control, any still or distilling ap-

Registry of stills, etc.

paratus set up, shall register the same with the collector of the district in which it is, by subscribing and filing with him duplicate statements, in writing, setting forth the particular place where such still or distilling apparatus is set up, the kind of still and its cubic contents, the owner thereof, his place of residence, and the purpose for which said still or distilling apparatus has been or is intended to be used; one of which statements shall be retained and preserved by the collector, and the other transmitted by him to the Commissioner of Internal Revenue. Stills and distilling apparatus shall be registered immediately upon their being set up.

Forfeiture.

Every still or distilling apparatus not so registered, together with all personal property in the possession or custody, or under the control of such person, and found in the building, or in any yard or inclosure connected with the building in which the same may be set up, shall be forfeited.

Penalty.

And every person having in his possession or custody, or under his control, any still or distilling apparatus set up which is not so registered, shall pay a penalty of five hundred dollars, and shall be fined not less than one hundred dollars, nor more than one thousand dollars, and imprisoned for not less than one month, nor more than two years.

The requirements of this section apply to all stills "set up," of whatever size, and for whatever purpose intended. (Regulations No. 7, revised, p. 6.)

Stills used for distillation of brandy from fruit are required to be stamped with a number, the letters and figures to be not less than three-eighths of an inch long. (Regulations No. 7, revised, p. 206.)

Registry of stills. (T. D. 193; T. D. 337; T. D. 918; T. D. 1021; T. D. 1344; T. D. 1817.)

Notice of intention to carry on business of distiller or rectifier.

SEC. 3259. Every person engaged in, or intending to be engaged in, the business of a distiller or rectifier, shall give notice in writing, subscribed by him, to the collector of the district wherein such business is to be carried on, stating his name and residence, and, if a company or firm, the name and residence of each member thereof, the name and residence of every person interested or to be interested in the business, the precise place where said business is to be carried on, and whether of distilling or rectifying; and if such business is carried on in a city, the residence and place of business shall be indicated by the name of the street and number of the building. In case of a distiller, the notice shall also state the kind of stills and the cubic contents thereof, the number and kind of boilers, the number of mash-tubs and fermenting-tubs, the cubic contents of each tub, the number of receiving-cisterns, the cubic contents of each cistern, the number of hours in which the distillery will ferment each tub of mash or beer, the estimated quantity of distilled spirits which the apparatus is capable of distilling every twenty-four hours, a particular description of the

lot or tract of land on which the distillery is situated, and of the buildings thereon, including their size, material, and construction; and that said distillery premises are not within six hundred feet, in a direct line, of any premises authorized to be used for rectifying or refining distilled spirits by any process.

In case of a rectifier, the notice shall state the precise place where such business is to be carried on, the name and residence of every person interested or to be interested in the business, the process by which the applicant intends to rectify, purify, or refine distilled spirits, the kind and cubic contents of any still used or to be used for such purpose, the estimated quantity of spirits, which can be rectified, purified, or refined every twenty-four hours in such establishment, and that said rectifying establishment is not within six hundred feet, in a direct line, of the premises of any distillery registered for the distillation of spirits.

In case of any change in the location, form, capacity, ownership, agency, superintendency, or in the persons interested in the business of such distillery or rectifying establishment, or in the time of fermenting the mash or beer, notice thereof, in writing, shall be given to the said collector or proper deputy collector of the district within twenty-four hours after such change; and any deputy collector receiving such notice shall immediately transmit the same to the collector of the district. Every notice required by this section shall be in such form, and shall contain such additional particulars, as the Commissioner of Internal Revenue may, from time to time, prescribe.

Penalty.

Every person who fails or refuses to give such notice shall pay a penalty of one thousand dollars, and shall be fined not less than one hundred dollars nor more than two thousand dollars; and every person who gives a false or fraudulent notice shall, in addition to such penalty or fine, be imprisoned not less than six months nor more than two years.

Section 7, act of March 1, 1879, requirement as to rectifier's bond, repealed by section 9, act of May 28, 1880 (21 Stat., 145).

Successions and changes of name or style of distillers. (Int. Rev. Circular No. 524, T. D. 20835; Regulations No. 7, revised, pp. 11, 207.)

Evidence of violation of statute. (*Pocahontas Distilling Co. v. United States*, 218 Fed., 782.)

SEC. 3260. [*Amended by sec. 1, act of May 28, 1880 (21 Stat., 145).*] Every person intending to commence or to continue the business of a distiller shall, on filing with the collector his notice of such intention, and before proceeding with such business, and on the first day of May of each succeeding year, execute a bond in the form prescribed by the Commissioner of Internal Revenue, conditioned that he shall faithfully comply with all the provisions of law relating to the duties and business of distillers, and shall pay all penalties incurred or fines imposed on him for a

Distiller to give bond.

violation of any of the said provisions; and that he shall not suffer the lot or tract of land on which the distillery stands, or any part thereof, or any of the distilling apparatus, to be incumbered by mortgage, judgment, or other lien, during the time in which he shall carry on said business. Said bond shall be with at least two sureties; approved by the collector of the district, and for a penal sum not less than * the amount of tax on the spirits that can be distilled in his distillery during a period of fifteen days. But in no case shall the bond exceed the sum of one hundred thousand dollars.

New bond.

The collector may refuse to approve said bond when, in his judgment, the situation of the distillery is such as would enable the distiller to defraud the United States; and in case of such refusal the distiller may appeal to the Commissioner of Internal Revenue, whose decision in the matter shall be final. A new bond shall be required in case of the death, insolvency, or removal of either of the sureties, and may be required in any other contingency at the discretion of the collector or Commissioner of Internal Revenue.

Penalty.

Every person who fails or refuses to give the bond hereinbefore required, or to renew the same, or who gives any false, forged, or fraudulent bond, shall forfeit the distillery, distilling-apparatus, and all real estate and premises connected therewith, and shall be fined not less than five hundred dollars nor more than five thousand dollars, and imprisoned not less than six months nor more than two years.

Officers should segregate the amounts by periods covered by the different bonds, giving the amount for which each bond is liable. (T. D. 1541.)

Exemption of ethyl alcohol.

SEC. 602. [*Act of February 24, 1919 (40 Stat., 1057).*] The Commissioner, with the approval of the Secretary, may by regulations exempt distillers of ethyl alcohol, for use in the production of munitions of war, or for other nonbeverage purposes, from so much of the provisions of sections 3264, 3285, or 3309 of the Revised Statutes, and acts amendatory thereof, * * * , as, in his judgment, may be expedient: *Provided*, That the bond prescribed in section 3260 of the Revised Statutes shall, in the cases herein provided, be in such sum and contain such further conditions as the Commissioner may require.

Collectors may refuse to approve bond of distiller in certain cases.

SEC. 67. [*Act of August 27, 1894 (28 Stat., 509).*] That whenever any person intending to commence or to continue the business of a distiller shall execute a bond under the provisions of section thirty-two hundred and sixty of the Revised Statutes of the United States, and file the same with the collector of internal revenue for the district in which he proposes to distill, the collector may refuse to approve said bond if the person offering the same shall have been previously convicted, in a court of competent jurisdiction, of any fraudulent noncompliance with any of the provisions of law relating to the

duties and business of distillers, or if the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall have compromised such an offense with the person upon the payment of penalties or otherwise, and, in case of such refusal, the person so proposing to distill may appeal to the Commissioner of Internal Revenue, whose decision in the matter shall be final.

Congress has the power to require a bond as a condition precedent to commencing business. (*Mason v. Rollins*, 2 Biss., 99; *Fed. Cas.* 9252.)

Discretionary power of collectors as to approval of bonds. (T. D. 998.)

Necessity for increased vigilance on the part of collectors to avoid the taking of worthless bonds. (T. D. 816.)

Additional bonds required when Government's interests not adequately protected. (T. D. 2578.)

A suit on a distiller's bond is not a suit for penalty, but an action on a contract. (*United States v. Dutcher*, 2 Biss., 51; 25 *Fed. Cas.* 15014; 8 *Int. Rev. Rec.*, 161; *Raymond v. United States*, 14 *Blatch.*, 51; 20 *Fed. Cas.* 11596.)

Stockholders of a corporation engaged in distilling can not be accepted as sureties. (16 *Op. Atty. Gen.*, 10; 24 *Int. Rev. Rec.*, 153.)

Bond of a corporation. Evidence of authority. (T. D. 852.)

Bond valid though not in form prescribed. (*United States v. Hodson*, 10 *Wall.*, 395; 12 *Int. Rev. Rec.*, 213; *United States v. Mynderse*, 12 *Id.*, 104; 14 *Id.*, 180.)

Where a bond contains conditions, some of which are legal and others illegal, and they are severable and separable, the latter may be disregarded and the former enforced. (*United States v. Hodson*, 10 *Wall.*, 395.)

Married women giving bond. (*United States v. Garlinghouse*, 4 *Ben.*, 194; 11 *Int. Rev. Rec.*, 11.)

A married woman will not be accepted as surety. (*Dept. Cir.* 70, Nov. 23, 1907.)

Collector should require compliance with State law. (T. D. 755.)

Any private agreement made by an officer which in any way changes the terms of the bond is as to the Government inoperative and void. (*United States v. Bicket*, 16 *Int. Rev. Rec.*, 85; *Fed. Cas.* 14590.)

Liability for tax.—The distiller's bond is liable for the tax on spirits not paid by the distiller. (*United States v. National Surety Co.*, 157 *Fed.*, 174, citing *United States v. National Surety Co.*, 122 *Fed.*, 904; 59 *C. C. A.*, 130; T. D. 685.)

Distiller's bond binding him to comply with all the provisions of law and regulations in relation to the duties and business of a distiller, held to cover taxes assessed on spirits distilled. (*United States Fidelity & Guaranty Co. v. United States*, 201 *Fed.*, 91; T. D. 1824.)

The execution of a warehousing bond covering spirits placed in a warehouse does not release liability on the annual bond. (*United States v. Richardson*, 127 *Fed.*, 893.)

Effect of surety signing upon condition another name is added. (*Dair v. United States*, 16 *Wall.*, 1; 18 *Int. Rev. Rec.*, 10.)

Recovery of fine on distiller's bond. (*United States v. Thompson*, 37 *Int. Rev. Rec.*, 160; 45 *Fed.*, 468.)

In suits brought to recover forfeiture the court shall render judgment "to recover so much as is due according to equity." (Sec. 961, R. S.)

Defenses on suits on bonds.—Validity of assessment (*Clinkenbeard v. United States*, 21 *Wall.*, 65; 21 *Int. Rev.*

Rec., 37). Compromise with principal (*United States v. Chouteau*, 102 U. S., 603; 27 Int. Rev. Rec., 49). As to assessment being prima facie evidence only (*United States v. Rindskopf*, 105 U. S., 418; 28 Int. Rev. Rec., 141. See notes under sec. 3182, R. S.).

The bond covers not merely duties imposed by existing law, but duties belonging to and naturally connected with the business imposed by subsequent law. (*United States v. Singer*, 15 Wall., 112; 17 Int. Rev. Rec., 9. See also *United States v. Powell*, 14 Wall., 493; 17 Int. Rev. Rec., 18.)

Circumstantial evidence. (*United States v. Cole*, 134 Fed., 697; T. D., 786.)

Liability of sureties.—Liability of surety not to be extended beyond the terms of the contract. When, after a bond has been signed by two sureties with the understanding between them and the obligor and obligee that it was to be signed by a third surety whose name was written in the bond, the name of the third surety was altered in the body of the instrument, with the knowledge of the obligee, by the substitution of a different surety, who then signed the bond: Held, that the two sureties were discharged. (*United States v. O'Neill and others*, 30 Int. Rev. Rec., 127; 19 Fed., 567.)

Surety not liable when the United States purchases spirits in a distiller's warehouse without retaining the tax due. (*United States v. Aiken*, 110 Fed., 370; affirmed in *United States v. Mullins* (surety), 119 Fed., 334.)

Sureties not liable when distillery is carried on at a place other than that mentioned in bond. (*United States v. Boecker*, 21 Wall., 652; 21 Int. Rev. Rec., 78.)

Bond not liable for tax when spirits are forfeited and sold and tax collected from purchaser. (*United States v. Uricl*, 111 U. S., 38; 30 Int. Rev. Rec., 111.)

Two assessments covering partially the same period will be presumed to be for different liquors till the contrary is shown.

An action upon a bond conditioned upon the payment of an assessment will not fail because the complaint does not set forth the whole of the assessment. (*United States v. O'Neill*, 30 Int. Rev. Rec., 127; 19 Fed., 567.)

In an action on a distiller's bond upon the question whether the sureties were entitled to a deduction of the amount realized from sale of distiller's personal property, held, that the judgment should be entered for the full amount of the bond, the sum realized from the personal property not being a legal offset. (*United States v. Loeb*, 14 Fed., 688.)

The proceeds of a sale of spirits forfeited for violation of the internal-revenue law belong exclusively to the Government, and can not be applied to the payment of tax. (*Harkins v. Williard*, 146 Fed., 703; 77 C. C. A., 129; T. D. 1030.)

When spirits are forfeited and sold and the tax paid by the purchaser, surety on bond is relieved from liability on account of an assessment against the distiller for tax on the same spirits. (*United States v. National Surety Co.*, Circuit Court of Appeals (1907), 157 Fed., 174, affirming *United States v. Witt*, U. S. Circuit Court, northern district of Georgia, following *United States v. Uricl*, 111 U. S., 38; 30 Int. Rev. Rec., 111. See *United States Fidelity & Guaranty Co. v. United States*, 158 Fed., 604, reversing 144 Fed., 806; T. D. No. 975.)

Liability for tax when spirits are seized and sold for violation of law. (T. D. 923; T. D. 1385.)

Suits should be first brought on warehousing bonds to recover tax on spirits before resorting to the distiller's

bond. (T. D. 20920; United States v. National Surety Co., 122 Fed., 904; T. D. 685.)

Laches.—Laches of officers does not relieve sureties. (United States v. Hosmer, 17 Int. Rev. Rec., 38; Fed. Cas. No. 15394; 21 Int. Rev. Rec., 14; Minturn v. United States, 29 Int. Rev. Rec., 34; 106 U. S., 437; United States v. Campbell, 170 Fed., 318.)

Negligence of an officer in permitting the removal of distilled spirits from a distillery warehouse before payment of taxes. (Hart v. United States, 95 U. S., 316.)

The stealing of spirits from warehouse by reason of the omission of officers to provide sufficient locks is no defense to action on bond. (United States v. Witten, 143 U. S., 76; 38 Int. Rev. Rec., 46.)

The laws in regard to bonds not to be regarded as penal but remedial, to be liberally construed. (United States v. National Surety Co., 50 C. C. A. 130; 122 Fed., 904.)

Where spirits were lost by reason of the negligence of a Government officer, after the same had been taken in possession by the Government, the bond is liable for the tax. (United States v. Guest, 143 Fed., 456; T. D. 979; United States v. Sisk, 176 Fed., 885.)

Opening judgment; new trial. A court has no power to open a judgment against the surety on a distiller's bond and grant a new trial upon the ground that certain facts, existing when the case was tried, were not then put in evidence. (United States v. Millinger, 7 Fed., 187.)

Production of papers.—The defendants in a suit on a distiller's bond, instituted for the recovery of taxes assessed under section 3253, Revised Statutes, have no legal right to the use at the trial of the reports, documents, and other papers on file in the office of the Commissioner of Internal Revenue. Nor has the court authority to compel the production of such papers. (16 Op. Atty. Gen., 24; 24 Int. Rev. Rec., 178.)

Fraudulent bond.—Indictment for executing and signing a false and fraudulent bond. (United States v. O'Brien, 7 Int. Rev. Rec., 61; Fed. Cas. 15900.)

SEC. 3261. No collector shall approve the bond of any distiller until all the requirements of the law and all regulations made by the Commissioner of Internal Revenue in relation to distilleries, in pursuance thereof, have been complied with.

Bond not to be approved until law and regulations are complied with.

Every collector who violates this provision shall forfeit and pay two thousand dollars, and be dismissed from office.

Penalty against collector.

SEC. 3262. [Amended by sec. 2, act of May 28, 1880 (21 Stat., 145).] No bond of a distiller shall be approved, unless he is the owner in fee, unincumbered by any mortgage, judgment, or other lien, of the lot or tract of land on which the distillery is situated, or unless he files with the collector, in connection with his notice, the written consent of the owner of the fee, and of any mortgagee, judgment-creditor, or other person having a lien thereon, duly acknowledged, that the premises may be used for the purpose of distilling spirits, subject to the provisions of law, and expressly stipulating that the lien of the United States for taxes and penalties shall have priority of such mortgage, judgment, or other incumbrance, and that in case of the forfeiture of the distillery premises, or of any part thereof, the title of the same shall vest in the United

Distiller must be owner in fee-simple, or have written consent of owner, etc.

States, discharged from such mortgage, judgment, or other incumbrance.

In any case where the owner of a distillery of distilling-apparatus, erected prior to the twentieth day of July, eighteen hundred and sixty-eight has only an estate for a term of years or other estate less than fee-simple in the lot or tract of land on which the distillery is situated, the evidence of title to which shall have been duly recorded prior to that date; or in like case, where the lease or other evidence of title is held but was not required by the laws of the State to be recorded in order to be valid at the time of its execution; or in any case of such prior erection where the title was then, and has continued to be, in litigation; or in any case of such prior erection where such owner is possessed of the fee, but incumbered with a mortgage executed and duly recorded prior to said twentieth of July, eighteen hundred and sixty-eight, and not due, or in any case of such prior erection where the fee is held by a feme-covert, minor, person of unsound mind, or other person incapable of giving consent, as hereinbefore required, the value of such lot or tract of land, together with the building and distilling-apparatus, shall be appraised in the manner to be prescribed by the Commissioner of Internal Revenue; and the collector may, at the discretion of the Commissioner, be authorized to accept, in lieu of the said written consent of the owner of the fee, the bond of such distiller, in such form as the Commissioner may prescribe, with not less than two sureties, conditioned that in case the distillery, distilling-apparatus, or any part thereof, shall by final judgment be forfeited for the violation of any of the provisions of law, the obligors shall pay the amount stated in said bond. Said sureties shall be residents of the collection-district or county, or of an adjoining county in the same State in which the distillery is situated, and owners of unincumbered real estate in said district or county, or adjoining county, equal to such appraised value, and the penal sum of said bond shall be equal to the appraised value of said lot or tract of land together with the buildings and distilling apparatus:

Provided, That in case of any distillery sold at judicial or other sale in favor of the United States, a bond may be taken at the discretion of the Commissioner of Internal Revenue, in lieu of the written consent required by this section, and the person giving such bond may be allowed to operate such a distillery during the existence of the right of redemption from such sale, on complying with all the other provisions of law.

And provided also, That the collector may at any time, at the discretion of the Commissioner, accept such bond as is authorized to be given by the distiller in lieu of the written consent of the owner of the fee in the case of a distillery erected prior to July twentieth, eighteen hundred and sixty-eight, notwithstanding such distillery has since then been increased by the addition of

land or buildings adjacent or contiguous thereto, not owned by the distiller himself in fee; such bond to be for and in respect of such addition only, if the distillery be one which the distiller owns in fee or in respect to which he has procured the written consent of the owner of the fee or other incumbrance, otherwise to be for and in respect of the entire distillery as increased by such additions.

Enforcement of lien; sale of leasehold interest. (*Mansfield v. Excelsior Refinery Co.*, 36 Int. Rev. Rec., 165; 135 U. S., 326.)

Liability of sureties when distillery premises are encumbered. (*Osborne v. United States*, 19 Wall., 577; 20 Int. Rev. Rec., 126.)

SEC. 3263. Every distiller and person intending to engage in the business of a distiller shall, previous to the approval of his bond, cause to be made, under the direction of the collector of the district, an accurate plan and description, in triplicate, of the distillery and distilling-apparatus, distinctly showing the location of every still, boiler, doubler, worm-tub, and receiving-cistern, the course and construction of all fixed pipes used or to be used in the distillery, and of every branch and every cock or joint thereof, and of every valve therein, together with every place, vessel, tub, or utensil from and to which any such pipe leads, or with which it communicates; also the number and location and cubic contents of every still, mash-tub, and fermenting-tub, the cubic contents of every receiving-cistern, and the color of each fixed pipe, as required in this Title. One copy of said plan and description shall be kept displayed in some conspicuous place in the distillery, and two copies shall be furnished to the collector of the district, one of which shall be kept by him, and the other transmitted to the Commissioner of Internal Revenue. The accuracy of every such plan and description shall be verified by the collector, the draughtsman, and the distiller; and no alteration shall be made in such distillery without the consent, in writing, of the collector. Any alteration so made shall be shown on the original, or by a supplemental plan and description, and a reference thereto noted on the original, as the collector may direct; and any supplemental plan and description shall be executed and preserved in the same manner as the original.

Plan of distillery.

Distillers whose distilleries have a daily spirit-producing capacity of 30 gallons of proof spirits, or less, are exempted from the provision requiring a plan. (Sec. 5, act of March 1, 1879; p. 208.)

SEC. 3264. [*Amended by sec. 5, act of March 1, 1879 (20 Stat., 327), act of June 22, 1910 (36 Stat., 590), sec. 402, act of September 8, 1916 (39 Stat., 756), and sec. 623 of act of February 24, 1919 (40 Stat., 1057).*]. On receipt of notice that any person, firm, or corporation wishes to commence the business of distilling, the collector, or a deputy collector, to be designated by him,

Surveys of distilleries.

shall proceed in person, at the expense of the United States, with the aid of an assistant designated by the Commissioner of Internal Revenue for the purpose of making surveys of distilleries in that district, to make a survey of such distillery for the purpose of estimating and determining its true spirit-producing capacity for a day of twenty-four hours.

In all surveys forty-five gallons of mash or beer brewed or fermented from grain shall represent not less than one bushel of grain, and seven gallons of mash or beer brewed or fermented from molasses shall represent not less than one gallon of molasses, except in distilleries operated on the sour-mash principle, in which distilleries sixty gallons of beer brewed or fermented from grain shall represent not less than one bushel of grain, and except that in distilleries where the filtration-aeration process is used, with the approval of the Commissioner of Internal Revenue; that is, where the mash after it leaves the mash tub is passed through a filtering machine before it is run into the fermenting tub, and only the filtered liquor passes into the fermenting tub, there shall hereafter be no limitation upon the number of gallons of water which may be used in the process of mashing or filtration for fermentation; but the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, in order to protect the revenue, shall be authorized to prescribe by regulation, to be made by him, such character of survey as he may find suitable for distilleries using such filtration-aeration process. The provisions hereof relating to filtration-aeration process shall apply only to sweet-mash distilleries.

A written report of such survey shall be made in triplicate, of which one copy shall be delivered to the distiller, one copy shall be retained by the collector, and one copy shall be transmitted to the Commissioner of Internal Revenue, and the survey shall take effect upon the delivery of such copy to the distiller.

Resurvey.

Whenever the Commissioner is satisfied that any report of the capacity of a distillery is incorrect or needs revision, he shall direct the collector to make in like manner another survey of said distillery, and the report thereof shall be made and deposited as hereinbefore required:

Provided, That the survey of any distillery estimated and stated by the distiller, in his notice of intention to distill, as capable of distilling not more than one hundred and fifty proof-gallons of distilled spirits every twenty-four hours may be made by the collector or by a deputy collector without the aid of an assistant; and that all surveys made for the purpose of correcting clerical errors or errors of computation existing in the report of a previous survey, and all surveys made for the purpose of changing the true spirit-producing capacity of any distillery for a day of twenty-four hours as estimated and determined by a previous survey, but which surveys do not require the

remeasuring of the fermenting-tubs in a grain or molasses distillery, or the still or stills in a distillery of apples, peaches, or grapes exclusively, may be made without taking the measurements of the fermenting tubs or stills, as the case may be, and without revisiting the distillery:

And provided further, That the Commissioner of Internal Revenue may, whenever he shall deem it proper, designate an officer, agent, or person other than the collector or deputy collector, to make, with or without the aid of a designated assistant, the surveys and resurveys hereinabove provided for.

As to necessity of delivering a copy of the survey to a distiller to fix his liability; survey binding on distiller. (Peabody v. Stark, 16 Wall., 240; 17 Int. Rev. Rec., 106. United States v. Ferrary, 93 U. S. (3 Otto), 625; 22 Int. Rev. Rec., 394. Wright v. United States, 108 U. S., 281.)

Circular No. 739 (T. D. 1641). Filtration—aeration process. (See T. D. 2393.)

Sec. 602. [*Act of February 24, 1919 (40 Stat., 1057).*] The Commissioner, with the approval of the Secretary, may by regulations exempt distillers of ethyl alcohol, for use in the production of munitions of war, or for other nonbeverage purposes, from so much of the provisions of sections 3264, * * *, and Acts amendatory thereof, * * * as, in his judgment, may be expedient: *Provided*, That the bond prescribed in section 3260 of the Revised Statutes shall, in the cases herein provided, be in such sum and contain such further conditions as the Commissioner may require.

Exemption of ethyl alcohol.

Surveys of distilleries at which ethyl alcohol is manufactured for use in production of munitions of war or for nonbeverage purposes. (T. D. 2845.)

Surveys of industrial distilleries abolished. (T. D. 2728.)

Sec. 3265. Any person who manufactures any still, boiler, or other vessels to be used for the purpose of distilling, shall, before the same is removed from the place of manufacture, notify in writing the collector of the district in which such still, boiler, or other vessel is to be used or set up, by whom it is to be used, its capacity, and the time when the same is to be removed from the place of manufacture; and no such still, boiler, or other vessel shall be set up without the permit in writing of the said collector for that purpose; and any person who sets up any such still, boiler, or other vessel, without first obtaining a permit from the said collector of the district in which such still, boiler, or other vessel is intended to be used, or who fails to give such notice, shall pay in either case the sum of five hundred dollars, and shall forfeit the distilling apparatus thus removed or set up in violation of law.

Notice by manufacturer of a still.

Penalty for setting up still without permit.

Section 3265 applies only to stills intended for distillation of spirits. (T. D. 1344.) See section 3268.

This section does not apply to stills for redistilling benzine and gasoline. (T. D. 1021.)

Distilling on certain premises prohibited; penalty.

SEC. 3266. No person shall use any still, boiler, or other vessel, for the purpose of distilling, in any dwelling-house, or in any shed, yard, or inclosure connected with any dwelling-house, or on board of any vessel or boat, or in any building, or on any premises where beer, lager beer, ale, porter, or other fermented liquors, vinegar, or other are (is) manufactured or produced, or where sugars or sirups are refined, or where liquors of any description are retailed, or where any other business is carried on; or within six hundred feet in a direct line of any premises authorized to be used for rectifying; and every person who does any of the acts prohibited by this section, or aids or assists therein, or causes or procures the same to be done, shall be fined one thousand dollars and imprisoned for not less than six months nor more than two years, in the discretion of the court, for each such offense: *Provided*, That saleratus may be manufactured, or meal or flour ground from grain, in any building or on any premises where spirits are distilled; but such meal or flour shall be used only for distillation on the premises: *Provided further*, That any boiler used in generating steam or heating water to be used in any distillery, may be located in any other building or on any other premises to be connected with such still or boiling-tubs, by suitable pipes or other apparatus, or the steam from such boiler in the distillery may be conveyed to other premises to be used for manufacturing or other purposes.

Vinegar. (Sec. 3282.) See act of June 14, 1879, page 232. Rectifying within 600 feet. See section 3244, subsection third, and section 3280 (8 Int. Rev. Rec., 73).

Distilling on premises where vinegar was manufactured. (United States v. Simmons, 96 U. S. (6 Otto), 360; 24 Int. Rev. Rec., 347.)

Indictment under section 3266. (United States v. Malone, 9 Fed., 897.)

The prohibition of a distillery within 600 feet of a rectifying establishment is not an unwarrantable interference with the use and disposition of property. If a business affords unusual facilities for evading the Government tax, then Congress may prescribe the modes, conditions, and limitations under which that business can be transacted. (Mason v. Rollins, 2 Bliss., 99.)

Receiving-cisterns in distilleries.

SEC. 3267. The owner, agent, or superintendent of any distillery established as hereinbefore provided, shall erect in a room or building to be provided and used for that purpose, and for no other, and to be constructed in the manner to be prescribed by the Commissioner of Internal Revenue, two or more receiving-cisterns, each to be at least of sufficient capacity to hold all the spirits distilled during the day of twenty-four hours, into which shall be conveyed all the spirits produced in said distillery; and each of said cisterns shall be so constructed as to leave an open space of at least three feet between the top thereof and the floor or roof above, and of not less than eighteen inches between the bottom thereof and the floor below, and shall be so situated that the officer

can pass around the same, and shall be connected with the outlet of the worm or condenser by suitable pipes or other apparatus, so constructed as always to be exposed to the view of the officer, and so connected and constructed as to prevent the abstraction of spirits while passing from the outlet of the worm or condenser back to the still or doubler, or forward to the receiving-cistern. Such cisterns and the room in which they are contained shall be in charge and under the lock and seal of the internal-revenue gauger designated for that duty; and all locks and seals required by law shall be provided by the Commissioner of Internal Revenue, at the expense of the United States; and the keys shall be in charge of the collector or such gauger as he may designate. On the third day after the spirits are conveyed into such cistern they shall be drawn off into casks, under the supervision of such gauger, in the presence of the store-keeper, and be removed directly to the distillery warehouse; but on special application to the collector by the owner, agent, or superintendent of any distillery, the spirits may be drawn off from said cisterns, under the supervision of the gauger, at any time previous to the third day.

See Section 5, act of March 1, 1879, page 208, allowing exemption from certain provisions of this section in case of small distilleries.

The penalty for failing to comply with the requirements of this section is provided by section 3456, page 361. (*United States v. Wm. McKim & Co.*, 10 Int. Rev. Rec. 74.)

Question of intent considered. (*Felton v. United States*, 96 U. S. (6 Otto) 699; 24 Int. Rev. Rec., 252.)

SEC. 3268. Every person who destroys, breaks, injures, or tampers with any lock or seal which may be placed on any cistern-room or building by the duly authorized officers of the revenue, or opens said lock or seal, or the door to said cistern-room or building, or in any manner gains access to the contents therein, in the absence of the proper officer, shall be fined not less than five hundred dollars nor more than five thousand dollars, and imprisoned not less than one year nor more than three years.

Breaking locks, gaining access to cistern, etc.; penalty.

Gaining access to distillery bottling warehouse without authority. (T. D. 990.)

Tampering with locks, etc., penalty. (Sec. 3311, p. 267.)

SEC. 3269. The door of the furnace of every still or boiler used in any distillery shall be so constructed that it may be securely fastened and locked. The fermenting-tubs shall be so placed as to be easily accessible to any revenue officer, and each tub shall have distinctly painted thereon in oil-colors its cubic contents in gallons and the number of the tub. There shall be a clear space of not less than one foot around every wood-still, and not less than two feet around every doubler and worm-tank. The doubler and worm-tanks shall be elevated not less than one foot from the floor, and every fixed pipe to be used by the distiller, except for conveyance of water, or

Furnaces, tubs, doublers, worm-tanks.

Penalty.

of spent mash or beer only, shall be so fixed and placed as to be capable of being examined by the officer for the whole of its length or course, and shall be painted, and kept painted, as follows, that is to say: Every pipe for the conveyance of mash or beer shall be painted of a red color; every pipe for the conveyance of low-wines back into the still or doubler shall be painted blue; every pipe for the conveyance of spirits shall be painted black, and every pipe for the conveyance of water shall be painted white. Whenever any fixed pipe is used by any distiller which is not painted or kept painted as herein directed, or which is painted otherwise than as herein directed, he shall forfeit the sum of one thousand dollars.

See section 5, act of March 1, 1879, p. 208, authorizing certain exemptions.

Apparatus and fastenings.

SEC. 3270. The Commissioner of Internal Revenue is authorized to order and require such changes of or additions to distilling apparatus, connecting-pipes, pumps, or cisterns, or any machinery connected with or used in or on the distillery premises, or may require to be put on any of the stills, tubs, cisterns, pipes, or other vessels, such fastenings, locks, or seals as he may deem necessary.

Distillery warehouse.

SEC. 3271. Every distiller shall provide, at his own expense, a warehouse, to be situated on and to constitute a part of his distillery premises, and to be used only for the storage of distilled spirits of his own manufacture until the tax thereon shall have been paid; but no dwelling-house shall be used for such purpose, and no door, window, or other opening shall be made or permitted in the walls of such warehouse leading into the distillery or into any other room or building; and such warehouse, when approved by the Commissioner of Internal Revenue, on report of the collector, is hereby declared to be a bonded warehouse of the United States, to be known as a distillery warehouse, and shall be under the direction and control of the collector of the district, and in charge of an internal-revenue store-keeper, assigned thereto by the Commissioner.

A bonded warehouse is an agency of the Government. (*George v. Fourth National Bank of Lainsville*, 41 Fed., 263.)

The Government has a lien on spirits in warehouse for deficiency tax, and a purchaser takes the property subject to the lien. (*Hartman v. Bean*, 99 U. S., 398; 25 Int. Rev. Rec., 141.)

Goods in the hands of the United States held for taxes can not be attached by State officers. (*Harris v. Denzie*, 3 Pet., 292.)

Spirits in bond not liable to seizure by sheriff. (*McCullough v. Large*, 20 Fed., 309; 30 Int. Rev. Rec., 168; *T. D. 21710*; *Pattison v. Dale*, 196 Fed., 5.)

Distilled spirits in a United States bonded warehouse can not be seized under State process. (1894.) (21 Op. Atty. Gen., 73.)

Sheriff can sell without taking possession. (*Kiel v. Harris*, 31 Int. Rev. Rec., 408.)

The deposit of spirits in warehouse is solely for the benefit of the distiller and to enable him to give bond for payment of the tax instead of paying the tax at once. (Government is not responsible for safe keeping of bonded whiskey deposited in a distillery warehouse. (*United States v. Witten*, 143 U. S., 76.)

Instructions relative to the construction of distillery warehouses. (T. D. 2431.)

The distiller is not prevented from dealing with the whiskey in warehouse subject to the paramount rights of the Government. Distillery warehouse receipts given in pledge sustained. (*Pattison v. Dale*, 196 Fed., 5, reversing 186 Fed., 997.)

Warehouse certificates form no part of revenue system. (T. D. 1494.)

Pledges of warehouse receipts against whiskey stored in pledger's own warehouse held invalid. (*In re Rohrer*, 186 Fed., 997.)

The warehouse is theoretically in the joint custody of the storekeeper and proprietor but in fact the control of the storekeeper is complete and practically exclusive. (*Taney v. Bank*, 187 Fed., 696; T. D. 1959.)

Spirits in warehouse destroyed by fire, section 3221, page 117 (*Farrell v. United States*, 99 U. S., 221; 25 Int. Rev. Rec., 83; *Insurance Companies v. Thompson*, 5 Otto, 547; *United States v. Alexander*, 110 U. S., 325.)

Special bonded warehouses for fruit brandy. (See act of Mar. 3, 1877, p. 251, and act of October 18, 1888, p. 254.)

[*Act of January 8, 1874 (18 Stat., 2).*] That when from death or any other cause there shall be any change in the person, firm or company engaged in the business of distilling at any distillery, and the person, firm or company that by reason of such change ceases to carry on said business at such distillery has at the time of such change spirits in the distillery warehouse, it shall be lawful for the Commissioner of Internal Revenue, upon the written consent of the surviving principals and sureties interested, and under such rules and regulations, and upon such other conditions as he may prescribe, to permit the succeeding person, firm, or company to use the distillery warehouse on the premises in the same manner as if it did not contain distilled spirits belonging to the original person, firm or company after setting apart and separating, by a secure and unbroken partition such portion of it as may be necessary for the storage and safe-keeping of the spirits distilled by the original person, firm or company, during the period allowed by law for the removal of distilled spirits from distillery warehouses, or until said spirits are removed, and the tax paid thereon within that time.

Distillery warehouses can be continued in use after changes have occurred in the management of the business.

Use of distillery warehouse by successors in certain cases.

Partition.

Lien for tax not impaired.

Provided, That nothing herein contained shall impair or in any way affect the lien existing at the time of such change under section one of the internal revenue act of July twenty, eighteen hundred and sixty-eight, as amended, or other liabilities under any internal revenue law, but the existence of such lien shall be no ground for refusing to approve the bond of the succeeding person, firm or company, anything in section eight of the said

act of July twenty, eighteen hundred and sixty-eight, as amended, to the contrary notwithstanding.

The provisions of the act of July 20, 1868, here referred to (15 Stat., 125, 128), and the amendments thereto, are incorporated in the Revised Statutes, sections 3251, 3260, 3262.

When a warehouse becomes unsafe.

SEC. 3272. Whenever in the opinion of the Commissioner of Internal Revenue any distillery or other warehouse is unsafe or unfit for use, or the merchandise therein is for any reason liable to loss or great wastage, he may discontinue such warehouse, and require the merchandise therein to be transferred to such other warehouse as he may designate and within such time as he may prescribe. Such transfer shall be made under the supervision of the collector, or of such other officer as may be designated by the Commissioner, and the expense thereof shall be paid by the owner of the merchandise. Whenever the owner of such merchandise fails to make such transfer within the time prescribed, or to pay the just and proper expense of such transfer, as ascertained and determined by the Commissioner, such merchandise may be seized and sold by the collector in the same manner as goods are sold upon distraint for taxes, and the proceeds of such sale shall be applied to the payment of the taxes due thereon and the cost and expenses of such sale and removal, and the balance paid over to the owner of such merchandise.

See also section 57, act of August 27, 1894, page 249.

Storekeepers have charge under direction of collector.

SEC. 3273. The store-keeper assigned to any distillery warehouse shall also have charge of the distillery connected therewith; and every store-keeper shall have charge of the warehouse to which he is assigned, and of such distillery, under the direction of the collector controlling the same.

Storekeepers' books and returns. (Secs. 3301, 3302, pp. 259, 260.)

Custody and management of warehouse.

SEC. 3274. Every distillery warehouse shall be in the joint custody of the store-keeper and the proprietor thereof. It shall be kept securely locked, and shall at no time be unlocked, or opened, or remain open, unless in the presence of such store-keeper, or other person who may be designated to act for him, as provided by law; and no articles shall be received in or delivered from such warehouse except on an order or permit addressed to the store-keeper and signed by the collector having control of the warehouse.

Distiller to keep distillery accessible.

SEC. 3275. No fence or wall of a height greater than five feet shall be erected or maintained around the premises of any distillery, so as to prevent easy and immediate access to such distillery. And every distiller shall furnish to the collector of the district as many keys of the gates and doors of the distillery as may be required by the collector, from time to time, for any revenue officer or other person who may be authorized

to make survey or inspection of the premises, or of the contents thereof; and said distillery shall be kept always accessible to any officer or other person having any such key. Every person who violates any of the foregoing provisions of this section by negligence or refusal, or otherwise, shall pay a penalty of five hundred dollars.

Penalty.

Sec. 3276. [*Amended by sec 5, act of March 1, 1879 (20 Stat., 327).*] It shall be lawful for any revenue officer at all times, as well by night as by day, to enter into any distillery or building or place used for the business of distilling, or used in connection therewith for storage or other purposes, and to examine, gauge, measure, and take an account of every still or other vessel or utensil of any kind, and of all low-wines, and of the quantity and gravity of all mash, wort, or beer, and of all yeast, or other compositions for exciting or producing fermentation in any mash or beer, of all spirits and of all materials for making or distilling spirits, which may be in any such distillery or premises, or in possession of the distiller.

Power of revenue officers to enter and examine distilleries.

And whenever any internal-revenue officer, or any person called by him to his aid, is hindered, obstructed, or prevented by any distiller, or by any workman, or other person acting for such distiller or in his employ, from entering into any such distillery or building or place as aforesaid; or any such officer is by the distiller or his workmen, or any person in his employ, prevented or hindered from, or opposed, or obstructed, or molested in the performance of his duty under the internal-revenue laws, in any respect, the distiller shall forfeit the sum of not exceeding one thousand dollars.

Obstructing officer; penalty.

And whenever any officer, having demanded admittance into a distillery or distillery premises, and having declared his name and office, is not admitted into such distillery or premises by the distiller or other person having charge thereof, it shall be lawful for such officer at all times, as well by night as by day, to break open by force any of the doors or windows, or to break through any of the walls of such distillery or premises necessary to be broken open or through, to enable him to enter the said distillery or premises; and the distiller shall forfeit the sum of not exceeding one thousand dollars.

Penalty for not admitting officer.

All the provisions of sections 3276, 3277, and 3278 are extended and made applicable to all premises whereon vinegar is manufactured, to all manufacturers of vinegar and their workmen or other persons employed by them. (Sec. 3282, p. 231.)

Obstructing or assaulting officers. (Sec. 65, Criminal Code, p. 674.)

Officers of internal revenue may take possession of a distillery and operate it for a short time to ascertain whether it is being operated according to law. (United States v. One Distillery & Fixtures, 193 Fed., 720.)

Supervision of warehouse by officer on duty thereat. (T. D. 1862.)

Distillers and rectifiers to furnish facilities for examination; penalty for neglect.

SEC. 3277. On the demand of any internal-revenue officer, every distiller or rectifier shall furnish strong, safe, and convenient ladders of sufficient length to enable the officer to examine and gauge any vessel or utensils in such distillery or premises; and shall, at all times when required, supply all assistance, lights, ladders, tools, staging, or other things necessary for inspecting the premises, stocks, tools, and apparatus belonging to such person, and shall open all doors, and open for examination all boxes, packages, and all casks, barrels, and other vessels not under the control of the revenue officer in charge, under a penalty of five hundred dollars for every refusal or neglect so to do.

Section 3152 makes this section applicable to revenue agents (p. 81).

Officers may break up ground or walls in order to examine.

SEC. 3278. It shall be lawful for any revenue officer and any person acting in his aid, to break up the ground on any part of a distillery, or premises of a distiller or rectifier, or any ground adjoining or near to such distillery or premises, or any wall or partition thereof, or belonging thereto, or other place, to search for any pipe, cock, private conveyance, or utensil; and, upon finding any such pipe or conveyance leading therefrom or thereto, to break up any ground, house, wall, or other place through or into which such pipe or other conveyance leads, and to break or cut away such pipe or other conveyance, and turn any cock, or to examine whether such pipe or other conveyance conveys or conceals any mash, wort, or beer, or other liquor, which may be used for the distillation of low-wines or spirits, from the sight or view of the officer, so as to prevent or hinder him from taking a true account thereof.

Signs to be put up by distillers and rectifiers; penalty for neglect.

SEC. 3279. Every person engaged in distilling or rectifying spirits, and every wholesale liquor-dealer, shall place and keep conspicuously on the outside of the place of such business a sign, exhibiting in plain and legible letters, not less than three inches in length, painted in oil-colors or gilded, and of a proper and proportionate width, the name or firm of the distiller, rectifier, or wholesale dealer, with the words: "Registered distillery," "rectifier of spirits," or "wholesale liquor dealer," as the case may be. Every person who violates the foregoing provision by negligence or refusal, or otherwise, shall pay a penalty of five hundred dollars.

Penalty for using false signs, etc.

And every person, other than a rectifier or wholesale liquor-dealer who has paid the special tax, or a distiller who has given bond as required by law, who puts up or keeps up the sign required by this section, or any sign indicating that he may lawfully carry on the business of a distiller, rectifier, or wholesale liquor-dealer, shall forfeit and pay one thousand dollars, and shall be imprisoned not less than one month nor more than six months. And every person who works in any distillery, rectifying

establishment, or wholesale liquor-store, on which no sign is placed and kept, as hereinbefore provided; and every person who knowingly receives at, carries or conveys any distilled spirits to or from, any such distillery, rectifying establishment, warehouse, or store, or who knowingly carries and delivers any grain, molasses, or other raw material to any distillery on which such sign is not placed and kept, shall forfeit all horses, carts, drays, wagons, or other vehicle or animal used in carrying or conveying such property aforesaid, and shall be fined not less than one hundred dollars nor more than one thousand dollars, or be imprisoned not less than one month nor more than six months.

Repealed by section 17, Title II, National Prohibition Act, page 357, post.

Insufficiency of indictment under section 3279. (*Terry v. United States*, 120 Fed., 483.)

United States v. Flynn (15 Blatch. (U. S.) 302; Fed. Cas. No. 15124). But this does not apply to one who merely works in putting up a building in which an illicit still is set up. (*United States v. Burgess*, 33 Fed., 833.)

Wholesale liquor dealer's sign. (T. Ds. 874, 945.)

Distillers' sign.—Display of sign reading "— Distilling Company," except by qualified distiller, is illegal, unless followed by words removing the presumption that the dealer is a distiller. (T. D. 1432.)

The sign "Practical distiller," used by a wholesale dealer and rectifier who is not an authorized distiller is in violation of section 3279, Revised Statutes. (T. D. 19331.)

SEC. 3280. It shall not be lawful for any distiller to commence or to continue the business of distilling, until he has given the bond required by law, and complied with the provisions of law relating to the registration and survey of distilleries, and the arrangement and construction of distilleries and the premises connected therewith; nor shall it be lawful for any person to engage in the business of distilling on any premises distant less than six hundred feet in a direct line from any premises used for rectifying; nor shall the processes of distillation and rectification both be carried on within the distance of six hundred feet in a direct line.

Distillers not to carry on business until the law is complied with.

Distilling within 600 feet of rectifying establishment prohibited.

Section 3286, p. 220.

SEC. 3281. Every person who carries on the business of a distiller without having given bond as required by law, or who engages in or carries on the business of a distiller with intent to defraud the United States of the tax on the spirits distilled by him, or of any part thereof, shall, for every such offense, be fined not less than one thousand dollars nor more than five thousand dollars, and imprisoned not less than six months nor more than two years. And all distilled spirits or wines, and all stills or other apparatus fit or intended to be used for the distillation or rectification of spirits, or for the compounding of liquors, owned by such person, wherever found, and all distilled spirits or wines and personal property found in the distillery or in any building, room, yard, or

Carrying on distillery without giving bond, etc.; penalty.

inclosure connected therewith, and used with or constituting a part of the premises, and all the right, title, and interest of such person in the lot or tract of land on which such distillery is situated, and all right, title, and interest therein of every person, who knowingly has suffered or permitted the business of a distiller to be there carried on, or has connived at the same; and all personal property owned by or in possession of any person who has permitted or suffered any building, yard, or inclosure, or any part thereof, to be used for purposes of ingress or egress to or from such distillery, which shall be found in any such building, yard, or inclosure, and all the right, title, and interest of every person in any premises used for ingress or egress to or from such distillery, who has knowingly suffered or permitted such premises to be used for such ingress or egress, shall be forfeited to the United States.

Section is constitutional. (*United States v. Seventy-one Barrels of Whiskey, Atkinson, claimant, T. D. 1786.*)

Rectifiers, liquor dealers, etc., carrying on business without payment of special tax.

Distiller carrying on business without giving bond, or with intent to defraud.

Fine and imprisonment.

Forfeiture.

SEC. 16. [*Act of February 8, 1875 (18 Stat., 307).*] That any person who shall carry on the business of a rectifier, wholesale liquor-dealer, retail liquor-dealer, wholesale dealer in malt-liquors, retail dealer in malt liquors, or manufacturer of stills, without having paid the special tax as required by law, or who shall carry on the business of a distiller without having given bond as required by law, or who shall engage in or carry on the business of a distiller with intent to defraud the United States of the tax on the spirits distilled by him, or any part thereof, shall, for every such offense, be fined not less than one hundred dollars nor more than five thousand dollars and imprisoned not less than thirty days nor more than two years.

And all distilled spirits or wines, and all stills or other apparatus, fit or intended to be used for the distillation or rectification of spirits, or for the compounding of liquors, owned by such person, wherever found, and all distilled spirits or wines and personal property found in the distillery or rectifying establishment, or in any building, room, yard, or inclosure connected therewith, and used with or constituting a part of the premises; and all the right, title, and interest of such person in the lot or tract of land on which such distillery is situated, and all right, title, and interest therein of every person who knowingly has suffered or permitted the business of a distiller to be there carried on, or has connived at the same; and all personal property owned by or in possession of any person who has permitted or suffered any building, yard, or inclosure, or any part thereof, to be used for purposes of ingress or egress to or from such distillery which shall be found in any such building, yard, or enclosure, and all the right, title, and interest of every person in any premises used for ingress or egress to or from such distillery, who has knowingly suffered or permitted such premises to be used

for such ingress or egress, shall be forfeited to the United States.

See section 3242, p. 159; section 3257, p. 209.

See references under section 3453, page 594.

Penalty for omitting to do things required where no punishment is imposed by any other section. (Sec. 3456, p. 597.)

As to rectifiers carrying on business with intent to defraud. (Sec. 3317, p. 271.)

As to sales made to evade tax. (Sec. 3454, p. 596.)

Indictment for unlawfully carrying on business of distillers with intent to defraud the United States or having a still under their superintendence sustained by proof that distillery was owned by a corporation of which defendants were officers and managers. (*Wood v. United States*, 204 Fed., 55, 122.)

This section is applicable to a prohibition State. (*United States v. Lazzaro*, 255 Fed., 237.)

The provision declaring forfeiture of real estate not unconstitutional. (*United States v. Distillery in West Front Street*, 11 Int. Rev. Rec., 174; Fed. Cas. No. 14965.)

Stock of W. L. D. not forfeitable by reason of nonpayment of special tax. (2000 Bottles of Liquors, 5 Ben., 265; Fed. Cas. No. 14302.)

Forfeiture dates back.—Forfeiture dates back to the time the offense was committed, and operates at that time as a statutory transfer of the right of property to the Government. (*United States v. Fifty-six Barrels of Whisky*, 1 Abb., U. S., 93; 4 Int. Rev. Rec., 106; Fed. Cas. No. 15095; *United States v. One Water Cask*, etc., 10 Id., 93; Fed. Cas. No. 15966; *Henderson's Distilled Spirits*, 14 Wall., 44; 15 Int. Rev. Rec., 119; *United States v. McCoy's Distillery*, 21 Id., 165.)

The title of the Government to the property infected with fraud vests from the time of its commission and the taint of fraud inheres in it even in the possession of an innocent purchaser. (*United States v. Eight Hundred Caddles of Tobacco*, 2 Bond., 305; Fed. Cas. No. 15036.)

Where an act is committed by the owner of a distillery by which a forfeiture thereof is incurred under the revenue laws, and subsequently the owner conveys the property to an innocent purchaser without notice of the commission of the act, the property remains still subject to the forfeiture incurred. The conveyance, in such case, passes no title as against the United States. (16 Op. Atty. Gen., 41.)

Forfeiture does not attach to spirits acquired after the offense. (*United States v. One Water Cask*, 10 Int. Rev. Rec., 93; Fed. Cas. No. 15966.)

Forfeiture denounced against distillers for carrying on business without having given bond, or with intent to defraud, and omission to keep books. (Sec. 3305, p. 261.)

Extent of forfeiture.—All personal property used in the unlawful business or in any other business openly carried on upon the premises is forfeited, even if the owner had no participation in or knowledge of the unlawful acts.

The forfeiture of lands and buildings does not reach beyond the right, title, and interest of the distiller, or of such other persons as have consented to the carrying on of the business of a distiller upon the premises. (*United States v. Stowell*, 133 U. S., 1; 36 Int. Rev. Rec., 30.)

An engine is part of a house, and goes with it. (*Walker v. Sherman*, 20 Wend., 635.)

As to the boiler, engine, pump, vats, and tanks. (*United States v. Stowell*, 133 U. S., 1; 36 Int. Rev. Rec., 30.)

Amount of real estate liable to forfeiture. (*United States v. Certain Piece of Land*, 1 Sawyer, 84; 11 Int. Rev. Rec., 126; Fed. Cas. No. 14767.)

Nothing can be plainer in legal decision than the proposition that the offense therein defined is attached primarily to the distillery and the real and personal property used in connection with the same, without any regard whatsoever to the personal misconduct or responsibility of the owner, beyond what necessarily arises from the fact that he leased the property to the distiller and suffered it to be used and occupied by the lessee as a distillery. (*Dobbins's Distillery v. United States*, 96 U. S., 395; 24 Int. Rev. Rec., 21; *United States v. Blair*, 3 Int. Rev. Rec., 67; *Fed. Cas.* 14, 607.)

A mortgage given by the distiller before the unlawful acts were committed is good as against the United States if the business was not carried on by the mortgagee's permission or connivance. (*United States v. Stowell*, 133 U. S., 1; 36 Int. Rev. Rec., 30.)

Forfeiture in case of fraud embraces interest of distiller and of every person who has knowingly permitted the business of a distiller to be there carried on, or has connived at the same. (T. D. 59.)

Distillery liable to forfeiture without regard to the culpability of the owner of the property. Mechanics' liens can not be enforced in State courts after seizure by the marshal in forfeiture proceedings. (*Heldritter v. Elizabeth Oil-Cloth Co.*, 6 Fed., 138.)

The principles of law upon this subject are clearly and fully announced in *Distillery v. United States* (96 U. S., 395), and cases cited. (*United States v. Two Bay Mules*, 36 Fed., 84.)

On a libel against a distillery for illegal operation the Government is only required to establish its case by a preponderance of evidence and not by proof beyond a reasonable doubt. (*Pocahontas Distilling Co. v. United States*, 218 Fed., 782.)

Preponderance of evidence only required. (*Grain Distillery No. 8 v. United States*, 204 Fed. 429; T. D. 1837.)

Operation of forfeitures against innocent persons. *United States v. One Barrel Whisky*, 4 Int. Rev. Rec., 146; *Fed. Cas.* No. 15921; *United States v. One Still*, 5 *Blatch.*, 403; 5 Int. Rev. Rec., 189; *Fed. Cas.* No. 15954; *United States v. Twenty-one Barrels High Wines*, 6 *Id.*, 218; *Fed. Cas.* No. 16567; *Distilled Spirits, etc. (mortgage)*, 2 *Ben.*, 486; *Fed. Cas.* No. 3923; 8 Int. Rev. Rec., 81; *United States v. Whisky*, 11 *Id.*, 109; *Fed. Cas.* No. 16671; *United States v. Distillery at Spring Valley* (leading case), 11 *Blatch.*, 255; 18 Int. Rev. Rec., 59; *Fed. Cas.* No. 14963; *Dobbins v. United States*, 96 U. S., 395; 24 Int. Rev. Rec., 21; *United States v. One Copper Still (mortgage)*, *Id.*, 317; 8 *Biss.*, 270; *Fed. Cas.* No. 15928; *Thacher's Distilled Spirits*, 103 U. S. (13 Otto), 679; 27 Int. Rev. Rec., 144; *United States v. Three Copper Stills*, 47 Fed., 495; *United States v. 220 Patented Machines (Jacobs)*, 99 Fed., 495; T. D., 54.)

As to person allowing ingress or egress over premises to or from a distillery. (*Gregory v. United States*, 17 *Blatch.*, 825; 26 Int. Rev. Rec., 27; *Fed. Cas.* No. 5803.)

Principal liable for acts of agent.—The acts of the agent imputed to the principal so far as they work the forfeiture of property used for unlawful purposes. (*Bush v. United States*, 31 Int. Rev. Rec., 305; 24 Fed., 917.)

Liability of employer for acts of servant. (*United States v. Buchanan*, 28 Int. Rev. Rec., 51; 9 Fed., 689.)

Presumption and burden of proof. (*One Hundred and Ninety-nine Barrels of Whisky v. United States*, 94 U. S., 86; *United States v. One Still*, 5 Int. Rev. Rec., 189; *Fed. Cas.* No. 15954; *United States v. Mathoit*, 1 *Sawyer*, 142; 11 Int. Rev. Rec., 158; *Fed. Cas.* No. 15740.)

The burden of establishing the right of forfeiture is on the Government. Absence of proof. (*United States v. One Engine and Belting, etc.*, 179 Fed., 698.)

Intent to defraud. *United States v. Simmons*, 96 U. S., 380; 24 Int. Rev. Rec., 347.)

Effect of acquittal.—If a person is tried for the same offense for which distillery is seized and acquitted, it is a bar to a suit in rem against the distillery. (*Coffey v. United States*, 116 U. S., 436; 32 Int. Rev. Rec., 38.)

Evidence. (Quantity of distilled spirits, 9 Int. Rev. Rec., 9; Fed. Cas. No. 11444; *United States v. Blaisdell*, Id., 82; Fed. Cas. No. 14608; *United States v. Staton*, 25 Id., 10; Fed. Cas. No. 16382; *United States v. Dobbs*, 15 Id., 9; Fed. Cas. No. 14972.)

The abandonment by the Government of an action for forfeiture does not affect its lien on the seized property for unpaid taxes. (*Alkan v. Bean*, 8 Biss., 83; 23 Int. Rev. Rec., 351; Fed. Cas. No. 202.)

Exposition of the law relative to distilleries. (*United States v. One Distillery and Fixtures, Foster, claimant*, 193 Fed., 720.)

Property liable to forfeiture notwithstanding conviction of distiller. (*United States v. One Distillery and Fixtures, Foster, claimant*, 193 Fed., 720; *United States v. 71 Bbls. Whiskey, Atkinson, claimant*; T. D. 1786.)

Stockholders, innocent or guilty, suffer alike from the forfeiture of corporate property. (*Wood v. United States*, 204 Fed., 55; T. D. 1836.)

SEC. 9. [*Act of March 1, 1879 (20 Stat., 327).*] Where any marshal or deputy marshal of the United States within the district for which he shall be appointed shall find any person or persons in the act of operating an illicit distillery, it shall be lawful for such marshal or deputy marshal to arrest such person or persons, and take him or them forthwith before some judicial officer named in section one thousand and fourteen of the Revised Statutes, who may reside in the county of arrest or if none, in that nearest to the place of arrest, to be dealt with according to the provisions of sections ten hundred and fourteen, ten hundred and fifteen, ten hundred and sixteen of the said Revised Statutes.

Arrest of persons while operating illicit distillery.

Section 1014, Appendix, page 642.

Warrants of arrest for violations of internal-revenue laws, page 659. (XII Comp. Dec., 803; IV Id., 338, 340.)

There is no repugnance between this section and section 19, act of May 28, 1896, page 659. (16 Comp. Dec., 669.)

SEC 3282. [*Amended by sec. 5, act of March 1, 1879 (20 Stat., 327).*] No mash, wort, or wash, fit for distillation or for the production of spirits or alcohol, shall be made or fermented in any building or on any premises other than a distillery duly authorized according to law; and no mash, wort, or wash so made and fermented shall be sold or removed from any distillery before being distilled; and no person, other than an authorized distiller, shall, by distillation, or by any other process, separate the alcoholic spirits from any fermented mash, wort, or wash; and no person shall use spirits or alcohol, * * * in manufacturing vinegar or any other article, or in any process of manufacture whatever, unless the spir-

Mash, wort, and vinegar.

Penalty.

its or alcohol so used shall have been produced in an authorized distillery and the tax thereon paid. Every person who violates any provision of this section shall be fined for each offense not less than five hundred dollars nor more than five thousand dollars, and be imprisoned not less than six months nor more than two years: *Provided further*, That nothing in this section shall be construed to apply to fermented liquors, or to fermented liquids used for the manufacture of vinegar exclusively. * * *

But no worm, goose-neck, pipe, conductor, or contrivance of any description whatsoever whereby vapor might in any manner be conveyed away and converted into distilled spirits, shall be used or employed or be fastened to or connected with any vaporizing apparatus used for the manufacturer of vinegar; nor shall any worm be permitted on or near the premises where such vaporizing process is carried on.

Vinegar factory not to be within 600 feet of a distillery.

Nor shall any vinegar factory, for the manufacture of vinegar as aforesaid, be permitted within six hundred feet of any distillery or rectifying house. But it shall be lawful for manufacturers of vinegar to separate, by a vaporizing process, the alcoholic property from the mash produced by them, and condense the same by introducing it into the water or other liquid used in making vinegar.

Vinegar with over 2 per cent of alcohol.

No person, however, shall remove, or cause to be removed, from any vinegar factory or place where vinegar is made, any vinegar or other fluid or material containing a greater proportion than two per centum of proof spirits. Any violation of this provision shall incur a forfeiture of the vinegar, fluid, or material containing such proof spirits, and shall subject the person or persons guilty of removing the same to the punishment provided for any violation of this section.

Secs. 8276, 8277, 8278 applicable.

And all the provisions of sections thirty-two hundred and seventy-six, thirty-two hundred and seventy-seven, and thirty-two hundred and seventy-eight of the Revised Statutes of the United States are hereby extended and made applicable to all premises whereon vinegar is manufactured, to all manufacturers of vinegar and their workmen or other persons employed by them.

Vinegar factories before March 1, 1879.

[*Act of June 14, 1879 (21 Stat., 20).*] That any vinegar factory for the manufacture of vinegar, established and operated as a vinegar factory prior to March first, eighteen hundred and seventy-nine, may be operated for the manufacture of vinegar by the use of alcoholic vapor within such distance less than six hundred feet of any distillery or rectifying house under such regulations as the Commissioner of Internal Revenue may prescribe with the approval of the Secretary of the Treasury.

Manufacture of vinegar by the employment of alcoholic vapor. (25 Int. Rev. Rec., 137; Regulations No. 7 re-

vised, p. 226; United States v. Prussing, 2 Biss., 344; Fed. Cas. No. 16095; United States v. Distillery, 23 Int. Rev. Rec., 147; Fed. Cas. No. 14960.)

Rectifiers making a wine mash. (T. D. 1437, Cir. No. 731.)

On and after September 1, 1909, rectifiers prohibited from making a so-called wine mash and using the product thereof in the production of compound liquors.—Provisions of Internal Revenue Circular 731 (suspended by Mimeograph Circular 599) reestablished. (T. D. 1528.)

Postponement until October 1, 1909, of operations of regulations prohibiting rectifiers from making a so-called wine mash and using the product thereof in the production of compound liquors—Modification of T. D. 1528. (T. D. 1537.)

Wine mash—Disposition of product on hand—Enforcement of Circular No. 731. (T. D. 1551.)

Defining the formula which may be used in the manufacture of a mash not fit for distillation within the meaning of section 3282. (T. D. 1593.)

Production of so-called "pomace wine." (T. D. 1645; T. D. 1949.)

Raisin wine. (T. D. 2012.) Cider to which sugar is added. (T. D. 2675.)

Production of mash by others than distillers. (T. D. 1712.)

SEC. 3283. No malt, corn, grain, or other material shall be mashed, nor any mash, wort, or beer brewed or made, nor any still used by a distiller, at any time between the hour of eleven in the afternoon of any Saturday and the hour of one in the forenoon of the next succeeding Monday; and every person who violates the provisions of this section shall be liable to a penalty of one thousand dollars.

No process for distilling between 11 p. m. of Saturday and 1 a. m. of Monday.

Penalty.

Relative to use of yeast rake on Sunday. (29 Int. Rev. Rec., 137.)

Relative to the use of pumps on Sunday. (30 Int. Rev. Rec., 45.)

Fermenting period of 48 hours authorized. (T. D. 2636.)

SEC. 602. [Act of February 24, 1919 (40 Stat., 1057).] Under such regulations as the Commissioner, with the approval of the Secretary, may prescribe, the manufacture, warehousing, withdrawal, and shipment, under the provisions of existing law, of ethyl alcohol for other than (1) beverage purposes or (2) use in the manufacture or production of any article used or intended for use as a beverage, and denatured alcohol, may be exempted from the provisions of section 3283 of the Revised Statutes.

Exemption of ethyl alcohol.

SEC. 3284. Every distiller or person employed in any distillery who, in the absence of the storekeeper, or person designated to act as storekeeper, uses, or causes or permits to be used, any material for the purpose of making mash, wort, or beer, or for the production of spirits, or removes any spirit, shall forfeit and pay double the amount of taxes on the spirits so produced, distilled, or removed, and in addition thereto be liable to a penalty of one thousand dollars.

Using material or removing spirits in absence of storekeeper.

Penalty.

Emptying fermenting tubs.

SEC. 3285. [*Amended by sec. 3, act of May 28, 1880 (21 Stat., 145) and act of June 22, 1910 (36 Stat., 590).*]

Every fermenting tub shall be emptied at or before the end of the fermenting period; no fermenting tub in a sweet-mash distillery shall be filled oftener than once in seventy-two hours; nor in a sour-mash distillery oftener than once in ninety-six hours, nor in a rum distillery oftener than once in one hundred and forty-four hours, nor in a distillery where the filtration-aeration process is employed, that is, where the mash after it leaves the mash tub is passed through a filtering machine, before it is run into the fermenting tub, and only the filtered liquor passes into the fermenting tub, and the approval of the Commissioner of Internal Revenue being secured, oftener than once in twenty-four hours. The provisions hereof relating to filtration-aeration process shall apply only to sweet-mash distilleries.

Filtration-aeration process.

Circular No. 739 (T. D. 1641) relative to filtration-aeration process.

Exemption of ethyl alcohol.

SEC. 602. [*Act of February 24, 1919 (40 Stat., 1057).*]

The Commissioner, with the approval of the Secretary, may by regulations exempt distillers of ethyl alcohol, for use in the production of munitions of war, or for other nonbeverage purposes, from so much of the provisions of section * * 3285, * * , and Acts amendatory thereof, * * as, in his judgment, may be expedient: *Provided*, That the bond prescribed in section 3260 of the Revised Statutes shall, in the cases herein provided, be in such sum and contain such further conditions as the Commissioner may require.

Drawing off water, cleansing worm tubs, etc.

SEC. 3286. [*Amended by sec. 5, act of March 1, 1879 (20 Stat., 327).*]

Whenever any officer requires the water contained in any worm tub in a distillery, at any time when the still is not at work, to be drawn off, and the tub and worm cleansed, the water shall forthwith be drawn off, and the tub and worm cleansed by the distiller, or his workmen, accordingly; and the water shall be kept and continued out of such worm tub for the period of two hours, or until the officer has finished his examination thereof. For any refusal or neglect to comply with any provision of this section, the distiller shall forfeit the sum of not exceeding one thousand dollars; and it shall be lawful for the officer to draw off such water, or any portion of it, and to keep the same drawn off for so long a time as he shall think necessary.

Penalty.

Section 3152, page 81, gives revenue agents the authority here conferred on officers.

Removal of spirits to warehouse and gauging and stamping same.

SEC. 3287. [*Amended by sec. 5, act of March 1, 1879 (20 Stat., 327); sec. 6, act of May 28, 1880 (21 Stat., 145).*]

act of February 21, 1899 (30 Stat., 843), and act of March 2, 1911 (36 Stat., 1014).] All distilled spirits shall be drawn from the receiving cisterns into casks or packages, each of not less capacity than ten gallons wine measure, and shall thereupon be gauged, proved, and marked by an

internal-revenue gauger, who shall cut on the cask or package containing such spirits, in a manner to be prescribed by the Commissioner of Internal Revenue, the quantity in wine gallons and in proof gallons of the contents of such casks or packages, and the particular name of such distilled spirits as known to the trade, that is to say, high wines, alcohol, or spirits, as the case may be, shall be marked or branded on the head of such cask or package in letters of not less than one inch in length; and the spirits shall be immediately removed into the distillery warehouse, and the gauger shall, in the presence of the storekeeper of the warehouse, place upon the head of the cask or package an engraved stamp, which shall be signed by the collector of the district and the storekeeper and gauger; and shall have written thereon the number of proof gallons contained therein, the name of the distiller, the date of the receipt in the warehouse, and the serial number of each cask or package, in progressive order, as the same are received from the distillery. Such serial number for ev[e]ry distillery shall be in a regular sequence of the serial number thereof, beginning with number one (No. 1) with the first cask or package deposited therein after July twentieth, eighteen hundred and sixty-eight, and no two or more casks or packages warehoused at the same distillery shall be marked with the same number. The said stamp shall be as follows:

"Distillery-warehouse stamp No. —. Issued by ———, collector, ——— district, State of ———, distillery warehouse of ———, 18—, Cask No. —; contents ——— gallons proof-spirits.

"United States Storekeeper.

"Attest:

United States Gauger."

Provided, however, That upon the application of the distiller, and under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe, distilled spirits may be drawn into wooden packages, each containing two or more metallic cans, which cans shall have each a capacity of not less than five gallons, wine measure, such packages to be filled and used only for exportation from the United States. And there shall be charged for each of said packages or cases for the expense of providing and affixing stamps, five cents instead of ten cents as now required by law.

Packages containing two or more metallic cans.

5 cents instead of 10 cents for stamps.

Act of Mar. 2, 1911.

Provided further, That alcohol or high-proof spirits withdrawn free of tax for the use of the United States, as authorized by section thirty-four hundred and sixty-four, Revised Statutes, may be drawn off for transfer by pipes direct from the receiving cisterns in the cistern room of any distillery to closed metal storage tanks situated in the distillery bonded warehouse and transferred from such storage tanks to tanks or tank cars for shipment, upon the execution of such bonds and under such

Transfer of alcohol by pipes.

regulations as the Secretary of the Treasury may prescribe.

Regulations concerning the exportation of distilled spirits in inclosed metallic cans. (T. D. 20837; Reg. No. 29, revised; T. D. 905.)

Metal barrels or drums for high proof spirits permissible. (Cir. No. 678; T. D. 996.)

The deposit of the spirits in the warehouse was solely for the benefit of the distiller. The Government assumed no responsibility to him for their safe-keeping. (*United States v. Witten*, 143 U. S., 76; 38 Int. Rev. Rec., 46.)

Injunction to restrain the enforcement of an order requiring product known to the trade as "Spirits" to be branded as "Alcohol." (*Union Distilling Co. v. Bettman*, 181 Fed., 419.)

Regulations for marking and branding distilled spirits. (Cir. No. 723; T. D. 1352; Cir. No. 726; T. D. 1375; Cir. No. 728; T. D. 1390; Min. Cir. No. 573, T. D. 1404; Cir. No. 737; T. D. 1620; and T. D. 1624; modified June 13, 1910; Cir. No. 738; T. D. 1638; T. D. 2207; T. D. 2548; T. D. 2560.)

Regulations governing storage. (T. D. 1688; Cir. No. 19, Int. Rev. No. 741.)

Under-proofing and under-gauging distilled spirits. (T. D. 2240.)

Allowance for leakage. (T. D. 2515.)

Marking packages containing spirits produced from molasses. (T. D. 2154.)

Metal packages for containing spirits for export not required to have wooden surfaces for receiving marks, brands, and stamps, where certain conditions are complied with. (T. D. 2822.)

Section 3287 makes the characteristics of the marking to be placed on the cask or package a matter of administrative discretion with the Commissioner, subject to the approval of the Secretary of the Treasury. Effect of restraining order. (27 Op. Atty. Gen., 43.)

Suit to enjoin collector and internal-revenue gaugers from marking rectified spirits "imitation whisky," acting under instructions in Internal-Revenue Circular 723 of May 5, 1908, issued in conformity with the direction of the President to the Secretary of Agriculture for the enforcement of the pure-food act.—Decision of Judge Thompson sustained the Government.—Application for rehearing denied. (*Union Distilling Co. v. Bettman*, 181 Fed., 419; T. D. 1410.)

Suit to enjoin collector and internal-revenue gaugers from marking rectified spirits "imitation whisky."—Decision of Judge Humphrey denying application for preliminary injunction. (*Woolner v. Rennick*, 170 Fed., 662; T. D. 1425.) See also T. D. 1427, *Western Distilleries v. Muentner*.

Marking of distilled spirits. (27 Op. Atty. Gen., 47.)

Relative to marking distilled spirits produced from molasses at distilleries and rectifying houses pending litigation to test the decision of President Taft, of December 27, 1909, as to "What is whisky." (Cir. No. 740; T. D. 1647.)

Regulations under the last proviso of section 3287, relative to the storage, removal and shipment in tanks and tank cars of alcohol free of tax for use of the United States. (Cir. No. 741; T. D. 1688.)

Canadian Club whisky need not be labeled a blend of whiskies under section 8 of the food and drugs act of June 30, 1906 (34 Stat., 768). (28 Op. Atty. Gen., 455.)

Spirit pack-
ages, tanks, pipe
lines, etc.

SEC. 602. [*Act of February 24, 1919 (40 Stat., 1057).*] That at registered distilleries producing alcohol, or other

high-proof spirits, packages may be filled with such spirits reduced to not less than one hundred proof from the receiving cisterns and tax paid without being entered into bonded warehouse. Such spirits may be also transferred from the receiving cisterns at such distilleries, by means of pipe lines, direct to storage tanks in the bonded warehouse and may be warehoused in such storage tanks. Such spirits may be also transferred in tanks or tank cars to general bonded warehouses for storage therein, either in storage tanks in such warehouses or in the tanks in which they were transferred. Such spirits may also be transferred from receiving cisterns or warehouse storage tanks to barrels, drums, tanks, tank cars, or other approved containers, and may be transported in such containers for exportation or other lawful purposes. The Commissioner, with the approval of the Secretary, is hereby empowered to prescribe all necessary regulations relating to the drawing off, transferring, gauging, storing, and transporting of such spirits; the records to be kept and returns to be made; the size and kind of packages and tanks to be used; the marking, branding, numbering, and stamping of such packages and tanks; the kinds of stamps, if any, to be used; and the time and manner of paying the tax; the kind of bond and the penal sum of same. The tax prescribed by law must be paid before such spirits are removed from the distillery premises, or from general bonded warehouse in the case of spirits transferred thereto, except as otherwise provided by law.

Under such regulations as the Commissioner, with the approval of the Secretary, may prescribe, distilled spirits may hereafter be drawn from receiving cisterns and deposited in distillery warehouses without having affixed to the packages containing the same, distillery warehouse stamps, and such packages, when so deposited in warehouse, may be withdrawn therefrom on the original gauge where the same have remained in such warehouse for a period not exceeding thirty days from the date of deposit.

Withdrawal
from receiving
cisterns.

Receiving cisterns in distillery, sec. 3267, R. S., amended.
Distillery warehouse stamps, sec. 3287, R. S., amended.
Distilled spirits in warehouse; withdrawal. (T. D. 2562.)

See sec. 606, act February 24, 1919, page 269, as to discontinuance of distillery warehouse stamps.

Storage tanks in general bonded warehouse. (T. D. 2846.)

Storage in tanks in distillery warehouses and withdrawal. (T. D. 2827.)

Regulations as to removal of tax-paid alcohol in tanks or tank cars to premises of rectifiers. (T. D. 2790.)

Provisions of Circular 740 not abrogated by Regulations No. 7, revised July 10, 1914. (T. D. 2154.)

SEC. 3288. No distilled spirits on which the tax has been paid shall be stored or allowed to remain on any

Tax-paid spir-
its not to re-
main on distil-
lery premises.

distillery premises, under the penalty of a forfeiture of all spirits so found.

Delay in affixing stamps indicating payment of tax on spirits no bar to forfeiture. (Letter to Collector Powers, May 22, 1896; 42 Int. Rev. Rec., 241.)

Forfeiture of
unstamped pack-
ages.

Sec. 3289. All distilled spirits found in any cask or package containing five gallons or more, without having thereon each mark and stamp required therefor by law, shall be forfeited to the United States.

Sections 3290, page 258, and 3323, page 276.

Rectified spirits included in term "distilled spirits." (Boyd v. United States, 14 Blatch., 317; Fed. Cas. No. 1749.)

See on this section United States v. One Rectifying Establishment (11 Int. Rev. Rec., 45); Fed. Cas. No. 15952; United States v. 32 Barrels Distilled Spirits (5 Fed., 188); 3 Packages Distilled Spirits, 14 Fed., 569; United States v. 14 Packages, 66 Fed., 984; United States v. One Package, 88 Fed., 856.)

Whenever an examination of a distiller's original package shows an excess of one proof gallon or upward over contents, as shown by marks, brands, and stamps, it should be detained, gauged by two gaugers, where practicable, and if excess is found by both to be 1 proof gallon or upward, the taxable excess should be estimated by the collector and reported for assessment against the distiller. (Regulations No. 7, p. 188, 25 Int. Rev. Rec., 157.)

Where the tax on an excess is received as above, in case of spirits produced in another district, the amount thus collected will be transmitted, by certificate of deposit or otherwise, to the collector of the district in which the spirits were produced. The collector receiving the tax so transmitted will report the same on Form 23. (Regulations No. 7, p. 189.)

When coloring matter is introduced into packages of whisky, double stamped, it is held subject to forfeiture. (T. D. 800.)

Burden of proof: Where spirits are found in packages of more than 5 gallons capacity without stamps, burden of proof is on the claimant to show that they are tax-paid. (United States v. Sykes, 58 Fed., 1000.)

Information for forfeiture under section 3289 held bad on demurrer. (United States v. Three Packages of Distilled Spirits, 152 Fed., 580.)

Forfeiture is incurred if the marks and stamps are not such as prescribed, irrespective of the question of fraud. (United States v. Seven Barrels of Whisky, Molise & Co., 131 Fed., 806.)

Stamps without date forfeit spirits. (United States v. 9 Packages, and United States v. 64 Packages, 51 Fed., 191.)

Proceedings may be had under section 3289 without regard to the guilt of any particular person. (United States v. 3 Copper Stills, 47 Fed., 495.)

The law provides a complete system of marks and brands on spirits in order to enable them to be traced from the distillery or rectifying establishment into the hands of the consumer or retail dealer, and to prevent fraud on the revenue. (United States v. Bardenheier, 49 Fed., 846; United States v. Three Pkgs. Dist. Spirits (Graf & Co., claimants), 125 Fed., 52.)

Tampering with spirits in stamped packages. (T. D. 997.)

Covering stamps prohibited. (T. D. 772.)

Obscuring marks or brands. (T. D. 1259; T. D. 1274.)

Substitution of spirits. (T. D. 2007.)

SEC. 3290. Whenever any gauger employs any owner, agent, or superintendent of any distillery or distillery warehouse, or any person in the service of such owner, agent, or superintendent, or any rectifier or wholesale liquor-dealer, or any person in the service of such rectifier or wholesale liquor-dealer, to use his brands, or to discharge any of the duties imposed upon him by law, he shall, for each offense so committed, pay a fine not exceeding one thousand dollars, in the discretion of the court.

Gauger employing distiller, etc., to use brands or perform his duties; penalty.

Gauger can not delegate his authority to any person. No substitution authorized. (United States v. Bittinger, 21 Int. Rev. Rec., 342; Fed. Cas. No. 14599.)

Regulations in regard to unofficial gauging. (No. 2, revised, p. 92; T. D. 1862.)

Attachment of stamps by the successor of a gauging officer who has gauged spirits without stamping the package and completing and marking. (Regulations No. 7, p. 168.)

Internal-revenue officers prohibited from acting as agents of distillers. (Letter to Collector Herring, Aug. 17, 1896; 42 Int. Rev. Rec., 354.)

The furnishing blank Forms 59 for private purposes is unlawful. (T. D. 513.)

SEC. 3291. Every gauger shall, under such regulations as may be prescribed by the Commissioner of Internal Revenue, make a daily return to the collector of his district, giving a true account, in detail, of all articles gauged and proved or inspected by him, and for whom, and the number and kind of stamps used by him.

Gauger's return.

Gauger's compensation, etc. (Sec. 3157, p. 89.)

SEC. 3292. Every gauger who makes any false or fraudulent inspection, gauging, or proof shall pay a penalty of one thousand dollars, and be fined not less than five hundred dollars nor more than five thousand dollars, and imprisoned not less than three months nor more than three years.

Fraudulent inspection, gauging, etc.; penalty.

ENTRIES FOR DEPOSIT AND WAREHOUSING BONDS COVERING SPIRITS IN DISTILLERY WAREHOUSES AND SPECIAL BONDED WAREHOUSES.

SEC. 3293. [Amended by section 4, act of May 28, 1880 (21 Stat., 145), and sec. 49, act of August 27, 1894 (28 Stat., 509).] The distiller of all spirits removed as aforesaid to the distillery warehouse shall, on the first day of each month, or within five days thereafter, enter the same for deposit in such warehouse, under such regulations as the Commissioner of Internal Revenue may prescribe. Said entry shall be in triplicate, and shall contain the name of the person making the entry, the designation of the warehouse in which the deposit is made, and the date thereof, and shall be in the following form:

Entry, etc., of spirits removed to distillery warehouse.

ENTRY FOR DEPOSIT IN DISTILLERY WAREHOUSE.

Entry of distilled spirits deposited by _____, in distillery warehouse _____, in the _____ district, State of _____, during the month ending on the _____ day of _____, anno Domini _____.

And the entry shall specify the kind of spirits, the whole number of packages, the marks and serial numbers thereon, the number of gauge or wine gallons, proof-gallons, and taxable gallons, and the amount of tax on the spirits contained in them; all of which shall be verified by the oath of the distiller of the same attached to the entry. The said distiller shall at the time of making said

Bond required. entry give his bond in duplicate, with one or more sureties, satisfactory to the collector of the district, conditioned that the principal named in said bond shall pay the tax on the spirits as specified in the entry, or cause

Spirits to be removed from bond within eight years.

the same to be paid, before removal from said distillery warehouse, and within eight years from the date of said entry; and the penal sum of such bond shall not be less than the amount of the tax on such distilled spirits. One of said entries shall be retained in the office of the collector of the district, one sent to the storekeeper in charge of the warehouse, to be retained and filed in the warehouse, and one sent with duplicate of the bond to the Commissioner of Internal Revenue, to be filed in his office.

New bond in case of death, etc.

A new bond shall be required in case of the death, insolvency, or removal of either of the sureties, and may be required in any other contingency affecting its validity or impairing its efficiency, at the discretion of the Commissioner of Internal Revenue. And in case the distiller fails or refuses to give the bond hereinbefore required, or to renew the same, or neglects to immediately withdraw the spirits and pay the tax thereon, or if he neglects to withdraw any bonded spirits and pay the tax thereon before the expiration of the time limited in the bond, the collector shall proceed to collect the tax by distraint, issuing his warrant of distraint for the amount of tax found to be due, as ascertained by him from the report of the gauger if no bond was given, or from the terms of the bond if a bond was given. But this provision shall not exclude any other remedy or proceeding provided by law.

(T. D. 21735.)

Excessive loss of spirits in warehouse.

If it shall appear at any time that there has been a loss of distilled spirits from any cask or other package hereafter deposited in a distillery warehouse, other than the loss provided for in section thirty-two hundred and twenty-one of the Revised Statutes of the United States, as amended, which, in the opinion of the Commissioner of Internal Revenue, is excessive, he may instruct the collector of the district in which the loss has occurred to require the withdrawal from warehouse of such distilled spirits, and to collect the tax accrued upon the original quantity of distilled spirits entered into the warehouse in such cask or package, notwithstanding that the time specified in any bond given for the withdrawal of the

spirits entered into warehouse in such cask or package has not expired. If the said tax is not paid on demand, the collector shall report the amount due upon his next monthly list, and it shall be assessed and collected as other taxes are assessed and collected.

That the tax on all distilled spirits hereafter entered for deposit in distillery warehouses shall be due and payable before and at the time the same are withdrawn therefrom and within eight years from the date of the entry for deposit therein; and warehousing bonds hereafter taken under the provisions of section thirty-two hundred and ninety-three of the Revised Statutes of the United States shall be conditioned for the payment of the tax on the spirits as specified in the entry before removal from the distillery warehouse, and within eight years from the date of said bonds.

Tax to be paid within eight years of date of entry.

Circular No. 625, revised (See T. D. 2400; T. D. 2435; T. D. 2472, superseded by T. D. 2508.)

A like provision as to spirits deposited in general bonded warehouses or in special bonded warehouses. (Sec. 58, act of August 27, 1894, p. 249.)

Collectors will, unless otherwise directed, where the distiller neglects to pay the tax on his bonded spirits within the time fixed by law, proceed to collect the tax due as above provided, instead of reporting the same on lists, Form 23.

In case of distraint, the collector will first distraint upon the spirit as to which the tax is due and is a first lien (sec. 3251), and if further distraint becomes necessary, upon the distillery property, which is also subject to the lien imposed by section 3251. (Circular letter to collectors, Nov. 4, 1899; T. D. 21735.)

Warehouse certificates for bonded spirits.—As warehouse certificates for bonded spirits form no part of our revenue system, the affixing of United States gaugers' names thereto can not be permitted under any circumstances. (T. D. 1494.)

Warehouse receipts or certificates for bonded spirits. (Cir. No. 25, Int. Rev. No. 736; T. D. 1503.)

Additional warehousing bonds. (T. D. 2578.)

Requirement as to penal sum of bond. (T. D. 2644.)

Spirits stolen in warehouse after seizure. Bond liable. (United States Fidelity & Guaranty Co., Baltimore, Md., v. United States, 220 Fed., 592; T. D. 2103.)

Warehouse receipts calling for whisky stored in distillery warehouse represent the property itself and their transfer to a purchaser or pledgee in good faith, together with the gauger's certificates, operates as a delivery of the whisky. (Taney v. Pennsylvania National Bank, 187 Fed., 689; 232 U. S. 174; T. D. 1959.)

Courts will not interfere with action of Commissioner in requiring new bond. (Brown v. D. C. Foster & N. Glen Williams, 194 Fed., 855; T. D. 1760.)

Taxation by State of liquors in bonded warehouses. (Carstairs v. Cochran, 193 U. S. 10.)

SEC. 49. [Act of August 27, 1894 (28 Stat., 509).] That warehousing bonds and transportation and warehousing bonds, conditioned for the payment of the taxes on all distilled spirits entered for deposit into distillery or special bonded warehouses on and after the passage of this Act, shall be given by the distiller of said spirits as required by

Warehousing bonds to be given by distillers.

Tax to be paid within eight years from date of original gauge, as to fruit brandy and as to other spirits from date of original entry for deposit.

Additional bonds.

existing laws, conditioned, however, for payment of taxes at the rate imposed by this Act and before removal from warehouse and within eight years; as to fruit brandy, from the date of the original gauge, and as to all other spirits from the date of the original entry for deposit, and all warehousing bonds or transportation and warehousing bonds conditioned for the payment of the taxes on distilled spirits entered for deposit into distillery or special bonded warehouses prior to that date shall continue in full force and effect for the time named in said bonds, except where new or additional bonds are required under existing law.

* * * * *

Provided, That the distiller may, at his option and under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe, execute an annual bond for the spirits so deposited in lieu of the bonds herein provided.

Annual bonds.

The amendments effected by section 49, above, so far as relates to spirits deposited in distillery warehouses, consisted:

(1) In requiring the warehousing bond to be given in each case by the "distiller," and not by the "distiller or owner," as theretofore required;

(2) In requiring the bond to be conditioned for the payment of taxes at the rate imposed by the act (sec. 48), and within eight years from the date of original entry for deposit; and

(3) In providing for an annual warehousing bond (when the distiller so elects), in lieu of the monthly warehousing bond.

Depositing spirits in a Government warehouse does not make them the property of the Government or cause them to be held at the risk of the bailee. (Farrell v. United States, 99 U. S. (9 Otto), 221; 25 Int. Rev. Rec., 83; circuit court decision, 24 Int. Rev. Rec., 231.)

Spirits destroyed in warehouses by fire or other casualty, abatement or refund of taxes on. (Sec. 3221, p. 142.)

Spirits destroyed during transportation from a distillery warehouse to a port of export. (Act of Dec. 20, 1879, p. 285.)

Spirits destroyed during transportation from a distillery warehouse to a manufacturing warehouse. (Sec. 15, act of May 28, 1880, p. 610.)

Spirits destroyed while in transit to general bonded warehouse. (Greenbrier Distillery Co. v. Johnson, 88 Fed., 638.)

Stockholders of a corporation engaged in distilling can not be accepted as sureties on the distillers' warehousing bond. (16 Op. Atty. Gen., 10; 24 Int. Rev. Rec., 153.)

Empty packages found in distillery warehouses. (23 Int. Rev. Rec., 189.)

Collection of tax on spirits not paid within the time fixed by the bond. (29 Int. Rev. Rec., 81; 30 Id., 141, 165, 253, 261, 309; 31 Id., 61, 197.)

Laches of officers does not relieve sureties. (See under sec. 67, act of August 27, 1894; p. 212.)

Surety on distiller's warehouse bond held liable for internal revenue tax on spirits deposited in warehouse and subsequently stolen after the government has obtained a judgment forfeiting the distillery and the spirits. (United States Fidelity & Guaranty Co. of Baltimore, Md. v. United States, 220 Fed., 592.)

Payment of the tax on forfeited spirits by the marshal out of proceeds of sale discharges liability of sureties on warehouse bond for tax. (*United States v. Ulrici*, 111 U. S., 38; 30 Int. Rev. Rec., 111; T. D. 1339 and T. D. 1335.) See *United States v. South Branch Distilling Co.*, 8 Bias. 162 Fed. Cas. 16359.)

Withdrawal of spirits from warehouse by assignee. (Letter to Collector Mize, Oct. 14, 1895; 41 Int. Rev. Rec., 437.)

Equalizing spirits in warehouse. (T. D. 2008; *White Oak Distillery v. Sharp*, T. D. 1681; *Mayes v. Casey*, 252 Fed. 754; T. D. 2757.)

The destruction of spirits by fire in a warehouse constitutes a "removal" so as to make the tax payable before expiration of bonded period. (*United States v. Peace*, 53 Fed., 990.)

When a suit is brought on a distiller's warehousing bond for tax on spirits alleged to have been destroyed by fire in warehouse, defendants have the right, in the absence of fraud, collusion, or negligence, to make as a defense that the spirits were so destroyed and that no tax is due. (*Freeman v. United States*, 157 Fed., 195.) This is contrary to Supreme Court decision in the *Farrell Case*, 99 U. S., 221, cited under section 3221, Revised Statutes.

Distiller's warehousing bonds. (T. Ds. 1040, 1054, 2307.) Transportation and warehousing bonds may be executed in duplicate instead of triplicate. (T. D. 1548.)

Instructions relative to the preparation of bonds executed by guarantee or surety companies (T. D. 1382.)

Execution of bonds by agents or attorneys. (T. D. 780, T. D. 877.)

SEC. 3294. [*Amended by sec. 5, act of March 1, 1879 (20 Stat., 327), and by sec. 5, act of May 28, 1880 (21 Stat., 145).*] Any distilled spirits may, on payment of the tax thereon, be withdrawn from warehouse on application to the collector of the district in charge of such warehouse, on making a withdrawal entry in duplicate, and in the following form:

Withdrawal
from warehouse,
entry for.

ENTRY FOR WITHDRAWAL OF DISTILLED SPIRITS FROM WAREHOUSE.

Tax paid.

Entry of distilled spirits to be withdrawn, on payment of the tax, from warehouse of distillery number _____, situated in the _____ district of _____, by _____, deposited on the _____ day of _____, anno Domini _____, by _____, in said warehouse.

And the entry shall specify the whole number of casks or packages, with the marks and serial numbers thereon, the number of gauge or wine gallons, and of proof gallons and taxable gallons, and the amount of the tax on the distilled spirits contained in them at the time they were deposited in the distillery warehouse; and said entry shall also specify the number of gauge or wine gallons, and of proof gallons, and taxable gallons contained in said casks or packages at the time application shall be made for the withdrawal thereof; and on payment of the tax the collector shall issue his order to the storekeeper in charge of the warehouse for the delivery. One of said entries shall be filed in the office of the collector, and the other transmitted by him to the Commissioner of Internal Revenue.

Spirits with
drawn from
warehouse may
be regauged.

SEC. 50. [*Act of August 27, 1894 (28 Stat., 509).*] That the distiller of any distilled spirits deposited in any distillery warehouse, or special bonded warehouse, or in any general bonded warehouse established under the provisions of this Act, may, prior to the expiration of four years from the date of original gauge as to fruit brandy, or original entry as to all other spirits, file with the collector a notice giving a description of the packages containing the spirits, and request a regauge of the same, and thereupon the collector shall direct a gauger to regauge the spirits, and to mark upon each such package the number of gauge or wine gallons and proof gallons therein contained. If upon such regauging it shall appear that there has been a loss of distilled spirits from any cask or package, without the fault or negligence of the distiller thereof, taxes shall be collected only on the quantity of distilled spirits contained in such cask or package at the time of the withdrawal thereof from the distillery warehouse or other bonded warehouse: *Provided, however,* That the allowance which shall be made for such loss of spirits as aforesaid shall not exceed one proof gallon for two months or part thereof; one and one-half gallons for three and four months; two gallons for five and six months; two and one-half gallons for seven and eight months; three gallons for nine and ten months; three and one-half gallons for eleven and twelve months; four gallons for thirteen, fourteen, and fifteen months; four and one-half gallons for sixteen, seventeen, and eighteen months; five gallons for nineteen, twenty, and twenty-one months; five and one-half gallons for twenty-two, twenty-three, and twenty-four months; six gallons for twenty-five, twenty-six, and twenty-seven months; six and one-half gallons for twenty-eight, twenty-nine, and thirty months; seven gallons for thirty-one, thirty-two, and thirty-three months; seven and one-half gallons for thirty-four, thirty-five, and thirty-six months; eight gallons for thirty-seven, thirty-eight, thirty-nine, and forty months; eight and one-half gallons for forty-one, forty-two, forty-three, and forty-four months; nine gallons for forty-five, forty-six, forty-seven, and forty-eight months; and no further allowance shall be made: *And provided further,* That in case such spirits shall remain in warehouse after the same have been regauged, the packages containing the spirits shall, at the time of withdrawal from warehouse and at such other times as the Commissioner of Internal Revenue may direct, be again regauged or inspected; and if found to contain a larger quantity than shown by the first regauge, the tax shall be collected and paid on the quantity contained in each such package as shown by the original gauge: *And provided further,* That taxes shall be collected on the quantity contained in each cask or package as shown by the original gauge, where the distiller does not request a regauge before the expiration of seven years from the date of origi-

Act of March
3, 1899.
Act of Janu-
ary 18, 1903.

nal entry or gauge: *Provided also*, That the foregoing allowance of loss shall apply only to casks or packages of a capacity of forty or more wine gallons, and that the allowance for loss on casks or packages of less capacity than forty gallons shall not exceed one-half the amount allowed on said forty-gallon cask or package; but no allowance shall be made on casks or packages of less capacity than twenty gallons: *And provided further*, That the proof of such distilled spirits shall not in any case be computed at the time of withdrawal at less than one hundred per centum.

Regulations governing the short method of withdrawing spirits from internal-revenue bonded warehouses. (T. D. 18998.)

Method of expediting withdrawals of spirits from distillery warehouses in certain cases. (T. D. 18778.)

Second regauge upon withdrawal of spirits from bonded warehouses by distillers—when required. (T. D. 19081.)

Withdrawal of spirits on original gauge. (T. D. 2562.)

Withdrawal of domestic spirits. When and how request for regauge of spirits in bond less than four years may be made. (T. D. 19125.)

Equalizing in warehouse. (T. D. 1681; *Mayes v. Casey*, 252 Fed., 754; T. D. 2757.)

Explaining the provisions of section 50, act of August 28, 1894, as to the regauging of distilled spirits. (Cir. No. 463; 42 Int. Rev. Rec., 297.)

Requiring collectors of internal revenue to certify to the authenticity of the signatures to requests for regauge of spirits under section 50. (Cir. No. 468; 42 Int. Rev. Rec., 373.)

Description of packages of spirits in notice and request for regauge under section 50. (Circular Letter No. 474; 43 Int. Rev. Rec., 149.)

Delay in filing application for regauge. (Cir. No. 645; T. D. 687.)

Excessive losses of distilled spirits in bonded warehouses. (Cir. No. 625, revised; T. D. 1689; Reg. No. 20, revised, art. 32, p. 19; T. D. 2409; T. D. 2508.)

No allowance can be made for additional outage occurring after the first regauge, even where the spirits are to be exported. (T. D. 18994.)

Transfer of distilled spirits to general bonded warehouse; losses adjusted. (T. D. 1320.)

Visits of general storekeepers and gaugers in charge of distillery warehouses to detect excessive losses of distilled spirits. (T. D. 461.)

SEC. 1. [*Act of March 3, 1899 (30 Stat., 1349).*] That under the conditions and limitations imposed by section fifty of the Act of August twenty-eighth, eighteen hundred and ninety-four, entitled "An Act to reduce taxation, to provide revenue for the support of the Government, and for other purposes," allowance for loss shall be made as to all distilled spirits produced and originally gauged for deposit prior to January first, eighteen hundred and ninety-nine, and which lawfully remain in any internal-revenue bonded warehouse, after the expiration of the period of forty-eight months from the date of original gauge: *Provided, however*, That the allowance for loss herein authorized shall not exceed nine and one-

Allowance for loss.

half gallons for forty-nine, fifty, fifty-one, and fifty-two months; ten gallons for fifty-three, fifty-four, fifty-five, and fifty-six months; ten and one-half gallons for fifty-seven, fifty-eight, fifty-nine, and sixty months; eleven gallons for sixty-one, sixty-two, sixty-three, and sixty-four months; eleven and one-half gallons for sixty-five, sixty-six, sixty-seven, and sixty-eight months; twelve gallons for sixty-nine, seventy, seventy-one, and seventy-two months; twelve and one-half gallons for seventy-three, seventy-four, seventy-five, and seventy-six months; thirteen gallons for seventy-seven, seventy-eight, seventy-nine, and eighty months; and thirteen and one-half gallons for eighty-one, eighty-two, eighty-three, and eighty-four months, and no further allowance shall be made.

Allowance to
be ascertained
by regauge.

SEC. 2. [*Act of March 3, 1899 (30 Stat., 1349).*] That the allowance for loss herein provided shall be ascertained by regauge on request of distiller before the expiration of eighty-four months from date of original gauge, and shall apply to spirits remaining in any internal-revenue bonded warehouse which shall have been regauged heretofore under the provisions of section fifty of the said Act of August twenty-eighth, eighteen hundred and ninety-four: *Provided*, That for the regauge of spirits originally gauged for deposit on or before the first day of March, eighteen hundred and ninety-two, the request of the distiller for a regauge under the provisions of this Act may be made at any time before the first day of May, eighteen hundred and ninety-nine.

Time for re-
gauge.

Regauge of bonded spirits on request of distiller under the provisions of section 50, act of August 28, 1894, as amended by act of March 3, 1899. (Int. Rev. Clr. No. 525; T. D. 20836.)

When requests for regauge must be filed under act of March 3, 1899. If requests are seasonably filed no injury will result to distiller by reason of delay in regauge. (T. D. 20948.)

The maximum allowance for each of the periods named in the case of a cask or package of 40 or more wine-gallons' capacity may be stated in tabular form as follows:

Not to exceed—

- 1 proof gallon for 2 months or part thereof.
- 1½ gallons for more than 2 months and not more than 4 months.
- 2 gallons for more than 4 months and not more than 6 months.
- 2½ gallons for more than 6 months and not more than 8 months.
- 3 gallons for more than 8 months and not more than 10 months.
- 3½ gallons for more than 10 months and not more than 12 months.
- 4 gallons for more than 12 months and not more than 15 months.
- 4½ gallons for more than 15 months and not more than 18 months.
- 5 gallons for more than 18 months and not more than 21 months.
- 5½ gallons for more than 21 months and not more than 24 months.
- 6 gallons for more than 24 months and not more than 27 months.
- 6½ gallons for more than 27 months and not more than 30 months.
- 7 gallons for more than 30 months and not more than 33 months.

7½ gallons for more than 33 months and not more than 36 months.
8 gallons for more than 36 months and not more than 40 months.
8½ gallons for more than 40 months and not more than 44 months.
9 gallons for more than 44 months and not more than 48 months.
9½ gallons for more than 48 months and not more than 52 months.
10 gallons for more than 52 months and not more than 56 months.
10½ gallons for more than 56 months and not more than 60 months.
11 gallons for more than 60 months and not more than 64 months.
11½ gallons for more than 64 months and not more than 68 months.
12 gallons for more than 68 months and not more than 72 months.
12½ gallons for more than 72 months and not more than 76 months.
13 gallons for more than 76 months and not more than 80 months.
13½ gallons for more than 80 months and not more than 84 months.

The maximum allowance for loss on casks or packages of less capacity than 40 wine gallons and not less than 20 wine gallons is limited to one-half the amounts stated in the above table.

[*Act January 13, 1903 (32 Stat., 770).*] That all distilled spirits now in internal-revenue bonded warehouses or which may hereafter be produced and deposited in such warehouses shall be entitled to the same allowance for loss from leakage or evaporation which now exists in favor of distilled spirits produced, gauged, and so deposited prior to January first, eighteen hundred and ninety-nine, and subject to the same conditions and limitations.

Outage.

This act extends the allowance for leakage to all distilled spirits in bond, and is amendatory of the act of March 3, 1899. (30 Stat., 1349.)

Fault or negligence in connection with loss of distilled spirits in bonded warehouses. (Cir. No. 328; 35 Int. Rev. Rec., 190.)

Regulations concerning the tare of spirit packages. (Cir. No. 675; T. D. 942; T. D. 1835.)

Excessive loss. (T. D. 2508.)

Equalizing loss of spirits in warehouse. (T. Ds. 1631, 2008, 2757.)

Sampling spirits in warehouse. (T. D. 2397.)

GENERAL BONDED WAREHOUSES FOR DISTILLED SPIRITS OTHER THAN FRUIT BRANDY. ACT OF AUGUST 27, 1894 (28 STAT., 509).

SEC. 51. That the Commissioner of Internal Revenue shall be, and is hereby, authorized, in his discretion and upon the execution of such bond as he may prescribe, to establish one or more warehouses, not exceeding ten in number in any one collection district, to be known and designated as general bonded warehouses, and to be used exclusively for the storage of spirits distilled from materials other than fruit, each of which warehouses shall be in the charge of a storekeeper or storekeeper and gauger to be appointed, assigned, transferred, and paid in the same manner as such officers for distillery warehouses are

Not over ten in one district.

In charge of storekeeper or storekeeper and gauger.

Under control
of collector.

In joint cus-
tody of store-
keeper and pro-
prietor; not to
be unlocked or
opened except,
etc.

Regulations.

Distiller may re-
move spirits from
distillery ware-
house to general
bonded ware-
house.

Stamp to be
affixed before
removal.

How spirits
may be deposit-
ed in a general
bonded ware-
house.

Tax shall be
paid within
eight years from
the date of orig-
inal entry into
distillery ware-
house.

Only one with-
drawal for trans-
portation to an-
other warehouse.

In such case
additional stamp
to be affixed.

now appointed, assigned, transferred, and paid. Every such warehouse shall be under the control of the collector of internal revenue of the district in which such warehouse is located, and shall be in the joint custody of the storekeeper and proprietor thereof, and kept securely locked, and shall at no time be unlocked or opened or remain open except in the presence of such storekeeper or other person who may be designated to act for him, as provided in the case of distillery warehouses; and such warehouses shall be under such further regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe.

SEC. 52. That any distilled spirits made from materials other than fruit, and lawfully deposited in a distillery warehouse, may, upon application of the distiller thereof, be removed from such distillery warehouse to any general bonded warehouse established under the provisions of the preceding section; and the removal of said spirits to said general bonded warehouse shall be under such regulations, and after making such entries and executing and filing with the collector of the district in which the spirits were manufactured, such bonds and bills of lading, and the giving of such other additional security, as may be prescribed by the Commissioner of Internal Revenue and approved by the Secretary of the Treasury.

SEC. 53. That all spirits intended for deposit in a general bonded warehouse, before being removed from the distillery warehouse, shall have affixed to each package an engraved stamp indicative of such intention, to be provided and furnished to the several collectors as in the case of other stamps, and to be charged to them and accounted for in the same manner.

SEC. 54. That any spirits removed in bond as aforesaid may, upon its arrival at a general bonded warehouse, be deposited therein upon making such entries, filing such bonds and other securities, and under such regulations as shall be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. It shall be one of the conditions of the warehousing bond covering such spirits that the principal named in said bond shall pay the tax on the spirits as specified in the entry or cause the same to be paid within eight years from the date of the original entry of the same into the distillery warehouse, and before withdrawal, except as hereinafter provided.

SEC. 55. That any spirits may be withdrawn once and no more from one general bonded warehouse for transportation to another general bonded warehouse, and when intended to be so withdrawn, shall have affixed thereto another general bonded warehouse stamp indicative of such intention; and the withdrawal of such spirits, and their transfer to and entry into such general bonded ware-

house shall be under such regulations and upon the filing of such notices, entries, bonds, and bills of lading as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may, from time to time, prescribe; and the bonds covering spirits in general bonded warehouses shall be given by distillers of the spirits, and shall be renewed at such times as the Commissioner of Internal Revenue may, by regulations, require.

Notices, entries, bonds, bills of lading, in case of transfer. Bonds to be given by distillers, and may be renewed.

SEC. 56. That the provisions of existing law in regard to the withdrawal of distilled spirits from warehouses upon payment of tax, or for exportation, or for transfer to a manufacturing warehouse, and as to the gauging, marking, branding, and stamping of the spirits upon such withdrawals, and in regard to withdrawals for the use of the United States or scientific institutions or colleges of learning, including the provisions for allowance for loss by accidental fire or other unavoidable accident, are hereby extended and made applicable to spirits deposited in general bonded warehouses under this act.

Exportation free of tax.

Transfers to manufacturing warehouse and for use of the United States or scientific institutions.

Loss by accidental fire.

Under this section the provisions for allowance for loss by fire or other unavoidable accident do not extend to the case of such a loss while spirits are in transit from a distillery warehouse to a general bonded warehouse. (*Greenbrier Distillery Co. v. Johnson*, 88 Fed., 638.)

SEC. 57. Whenever distilling shall have been suspended at any distillery for a period or periods aggregating six months during any calendar year, and the quantity of spirits remaining in the distillery warehouse does not exceed five thousand proof gallons, or whenever, in the opinion of the Commissioner of Internal Revenue, any distillery warehouse or general bonded warehouse is unsafe or unfit for use, or the merchandise therein is liable to loss or great wastage, he may in either such case discontinue such warehouse and require the merchandise therein to be transferred to such other warehouse as he may designate, and within such time as he may prescribe; and all the provisions of section thirty-two hundred and seventy-two of the Revised Statutes of the United States relating to transfers of spirits from warehouses, including those imposing penalties, are hereby made applicable to transfers to or from general bonded warehouses established under this act.

Transfer from distillery warehouse to general bonded warehouse may be ordered by Commissioner of Internal Revenue, when distillery warehouse contains less than 5,000 gallons and the distillery is under suspension six months in year, or if warehouse is unsafe or unfit for use, etc.

Provisions of section 3272, R. S., made applicable.

SEC. 58. The tax upon any distilled spirits removed from a distillery warehouse for deposit in a general bonded warehouse, and in respect of which any requirement of this act is not complied with, shall, at any time when knowledge of such fact is obtained by the Commissioner of Internal Revenue, be assessed by him upon the distiller of the same, and returned to the collector, who shall immediately demand payment of such tax, and upon the neglect of payment by the distiller shall proceed to collect the same by distraint. But this provision shall not exclude any other remedy or proceeding provided by law

When tax may be assessed and collected by distraint.

In case of excessive loss in casks in warehouses Commissioner may direct collector to demand tax, and if tax unpaid may assess.

to enforce the payment of the tax. If it shall appear at any time that there has been a loss of distilled spirits from any cask or package deposited in a general bonded warehouse or special bonded warehouse, other than the loss provided for in section thirty-two hundred and twenty-one of the Revised Statutes of the United States, which, in the opinion of the Commissioner of Internal Revenue, is excessive, he may instruct the collector of the district in which the loss has occurred to require the withdrawal from warehouse of such cask or package of distilled spirits and to collect the tax accrued upon the original quantity of distilled spirits entered into the warehouse in such cask or package, less only the allowance for loss provided by law. If the said tax is not paid on demand the collector shall report the amount due, as shown by the original gauge, upon his next monthly list, and it shall be assessed and collected as other taxes are assessed and collected.

Penal provisions as to offenses specified.

SEC. 59. That in case any distilled spirits removed from a distillery warehouse for deposit in a general bonded warehouse shall fail to be deposited in such general bonded warehouse within ten days after such removal, or within the time specified in any bond given on such removal, or if any distilled spirits deposited in any general bonded warehouse shall be taken therefrom, for export or otherwise, without full compliance with the provisions of this act, and with the requirements of any regulations made thereunder, and with the terms of any bond given on such removal, or if any distilled spirits which have been deposited in a general bonded warehouse shall be found elsewhere, not having been removed therefrom according to law, any person who shall be guilty of such failure, or any person who shall in any manner violate any provision of the next preceding eleven sections of this act, shall be subject, on conviction, to a fine of not less than one hundred dollars nor more than five thousand dollars, or to imprisonment for not less than three months nor more than three years for every such failure or violation; and the spirits as to which such failure or violation, or unlawful removal shall take place shall be forfeited to the United States.

Regulations, No. 20, relative to the establishment of general bonded warehouses, for the storage of spirits made from material other than fruit.

Supplement No. 1, relative to the bonding of distilled spirits in general bonded warehouses.

Bills of lading. (T. D. 1533.)

Loss of spirits while in transit to general bonded warehouse. (Greenbrier Distillery Co. v. Johnson, 88 Fed., 638.)

Loss of spirits in warehouse: See Sec. 3221, R. S., p. 142.

Loss of spirits in transit for export. (T. Ds. 2335, 2350, 2461.)

Excessive loss in warehouse, unlawful equalizing of loss of bonded spirits, etc. (See decisions cited under secs. 3292, 3294, R. S., pp. 239, 243.)

SPECIAL BONDED WAREHOUSES FOR FRUIT BRANDY.

[Act of March 3, 1877 (19 Stat., 393).]

The provisions of this act were extended and made applicable to brandy distilled from apples or peaches, or from any other fruit, by the act of October 18, 1888 (25 Stat., 560.) See p. 254.

SEC. 1. That the Commissioner of Internal Revenue shall be, and hereby is, authorized in his discretion, and upon the execution of such bonds as he may prescribe, to establish warehouses, to be known as special bonded warehouses, not exceeding ten in number in any one collection-district, exclusively for the storage of brandy made from grapes, each of which warehouses shall be in the charge of a storekeeper, to be appointed, assigned, transferred, and paid in the same manner that storekeepers for distillery-warehouses are now appointed, assigned, transferred, and paid. Every such warehouse shall be under the control of the collector of internal revenue of the district in which such warehouse is located, and shall be in the joint custody of the storekeeper and the proprietor thereof and kept securely locked, and shall at no time be unlocked or opened or remain open except in the presence of such storekeeper or other person who may be designated to act for him, as provided in the case of distillery-warehouses. And such warehouses shall be under such further regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe.

Not over ten
in one district.

In charge of
storekeeper.

Under control
of collector.

In joint cus-
tody of store-
keeper and pro-
prietor.

Not to be un-
locked or opened
except, etc.

Regulations.

SEC. 2. That every distiller of brandy from grapes, upon rendering his monthly return of materials used and spirits produced by him, shall immediately pay the tax upon such spirits, or may, after they have been properly gauged, marked, and branded, under regulations to be prescribed by the Commissioner of Internal Revenue and approved by the Secretary of the Treasury, and also stamped as hereinafter provided, cause them to be removed in bond from the place of manufacture to a special bonded warehouse, under such regulations, and after making such entries, and executing and filing with the collector of the district in which such spirits were manufactured such bonds and bills of lading, and giving such other additional security as may be prescribed by the Commissioner of Internal Revenue and approved by the Secretary of the Treasury.

Distiller to pay
tax on rendering
monthly return,
or may remove
brandy in bond
to special bonded
warehouse.

Bond to be conditioned under act of August 27, 1894, for payment of tax at \$1.10 per gallon within eight years from date of original gauge. See p. 241.

SEC. 3. That all brandy intended for deposit in a special bonded warehouse, before being removed from the distillery, shall have affixed to each package an engraved stamp indicative of such intention, to be provided and furnished to the several collectors as in the case of other

Stamp to be
affixed before re-
moval.

stamps, and to be charged to them and accounted for in the same manner. * * *

The act of May 28, 1880 (21 Stat., 145), repealed the provision charging 10 cents for these stamps.

SEC. 4. [*Amended by sec. 49, act of August 27, 1894 (28 Stat., 509).*] That any brandy made from grapes removed in bond according to law may, upon its arrival at a special bonded warehouse, be deposited therein upon making such entries, filing such bonds and other securities, and under such regulations as shall be prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury. It shall be one of the conditions of the warehousing-bond covering such spirits that the principal named in said bond shall pay the tax on the spirits as specified in the entry, or cause the same to be paid within eight years from the date of the original gauging of the same, and before withdrawal, except as hereinafter provided.

SEC. 5. That any brandy made from grapes may be withdrawn once and no more from one special bonded warehouse for transportation to another special bonded warehouse; and such brandy shall, on its arrival at the second special bonded warehouse, be immediately entered therein, from which warehouse it shall be withdrawn only on payment of the tax or for immediate exportation. In case the brandy withdrawn is intended for deposit in another special bonded warehouse, an additional stamp, indicative of such intention, shall be affixed to each package withdrawn, as in the case of brandy withdrawn from a distillery intended to be so deposited. And in case the brandy is intended for exportation, an engraved stamp indicative of such intention, shall be affixed to each package so removed, as in the case of spirits withdrawn from a distillery bonded warehouse for exportation, under the provisions of section thirty-three hundred and thirty, Revised Statutes: all the provisions of which section not inconsistent with this act are hereby made applicable to such withdrawals. And all withdrawals authorized by law of grape-brandy from any special bonded warehouse shall be upon making such withdrawal entries, and under such regulations, and unless the withdrawal is upon payment of tax, upon the execution of such bonds and bills of lading as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe. Export bonds given under the provisions of this act shall be canceled upon the production of such certificates of landing as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe, or upon proof of loss at sea satisfactory to the Commissioner of Internal Revenue. And the provisions of existing law relative to an allowance of loss by casualty in a distillery bonded warehouse are

How brandy may be deposited in the warehouse.

Tax shall be paid within eight years from date of original gauge.

Only one withdrawal for transportation to another warehouse.

In such case, additional stamp to be affixed.

Export stamp, etc., on exportation.

Provisions of sec. 3330, R. S., page 281, made applicable.

How withdrawals are to be made.

Export bonds, how canceled.

Provisions of sec. 3221, R. S., page 142, as to loss by casualty, made applicable.

hereby made applicable to brandy stored in special bonded warehouses, in accordance with the provisions of this act.

As to regauge of spirits withdrawn from warehouse, allowance for leakage, etc., see section 50, act of August 27, 1894, page 244; section 1, act of March 3, 1899, page 245.

SEC. 6. That the provisions of existing law in regard to the exportation of distilled spirits are hereby extended so as to permit the exportation from special bonded warehouses of grape brandy free of tax in any original cask containing not less than twenty gallons, and for the exportation of grape brandy upon which all taxes have been paid, with the privilege of drawback in quantities of not less than one hundred gallons, and in the distillers' original cask, containing not less than twenty nine gallons each.

Exportation
free of tax.

Drawback.

Twenty wine gallons undoubtedly intended, instead of "twenty nine gallons," as in the act. It was probably an error in engrossing.

See section 3329, page 279, and section 3330, page 281.

SEC. 7. That whenever, in the opinion of the Commissioner of Internal Revenue, any special bonded warehouse is unsafe or unfit for use, or the merchandise therein is liable to loss or great wastage, he may discontinue such warehouse, and require the merchandise therein to be transferred to such other warehouse as he may designate, and within such time as he may prescribe; and all the provisions of section thirty two hundred and seventy two of the Revised Statutes of the United States, relating to transfers of spirits from warehouses, including those imposing penalties, are hereby made applicable to transfers from special bonded warehouses.

Warehouse
may be discontinued, etc.

Sec. 3272, R. S., as to transfers, etc., made applicable.

SEC. 8. That the tax upon any brandy distilled from grapes, removed from the place where it was distilled, and in respect of which any requirement of this act is not complied with, shall at any time when knowledge of such fact is obtained by the Commissioner of Internal Revenue, be assessed by him upon the distiller of the same, and returned to the collector, who shall immediately demand payment of such tax, and, upon the neglect or refusal of payment by the distiller, shall proceed to collect the same by distraint. But this provision shall not exclude any other remedy or proceeding provided by law.

When tax may
be assessed and
collected by dis-
traint.

SEC. 9. That nothing in this act shall be construed as extending the time in which the tax on brandy made from grapes shall be paid beyond three [eight] years from the day on which the taxable quantity is ascertained by the gauger; and all brandy made from grapes, found elsewhere than in a distillery or special bonded warehouse, not having been removed therefrom according to law, and all brandy on which the tax has not been paid within

Tax must be
paid within
eight years.

Forfeiture.

three [eight] years of the date of the original gauging shall be forfeited to the United States.

Bonding period changed from three years to eight years by section 49, act of August 27, 1894. (See p. 252.)

Regulations to have the force and effect of law.

SEC. 10. That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may make all needful rules and regulations for carrying into effect the provisions of this act, and such regulations when made shall have all the force and effect of law.

Penal provisions as to offenses specified.

SEC. 11. That in case any grape brandy removed from the distillery for deposit in a special warehouse, shall fail to be deposited in such warehouse within ten days thereafter, or within the time specified in any bond given on such removal, or if any grape brandy deposited in any special warehouse shall be taken therefrom for deposit in another warehouse, or for export, or otherwise, without full compliance with the provisions of this act, and with the requirements of any regulations made thereunder, and with the terms of any bond given on such removal, then any person who shall be guilty of such failure, and any person who shall in any manner violate any provision of this act, or of the regulations made in pursuance thereof, shall be subject, on conviction, to a fine of not less than one hundred dollars nor more than five thousand dollars, and to imprisonment for not less than three months nor more than three years, for every such failure or violation; and the spirits as to which such failure or violation shall take place shall be forfeited to the United States.

Proprietors of special bonded warehouses may (except in case of tax-paid withdrawals) decline to deliver brandy stored in such warehouses until the warehouse receipts issued by them are surrendered, where the surrender of such receipts, before delivery of the spirits, is required by law. (T. D. 714.)

AN ACT To provide for warehousing fruit brandy.

[Act of October 18, 1888 (25 Stat., 560).]

Extension of provisions of Act of March 3, 1877.

That the provisions of an act entitled "An act relating to the production of fruit brandy, and to punish frauds connected with the same," approved March third, eighteen hundred and seventy-seven, be extended and made applicable to brandy distilled from apples or peaches, or from any other fruit the brandy distilled from which is not now required or hereafter shall not be required to be deposited in a distillery warehouse: *Provided*, That each of the warehouses established under said act, or which may hereafter be established, shall be in charge either of a storekeeper or of a storekeeper and gauger, at the discretion of the Commissioner of Internal Revenue.

Regulations No. 5, revised. Concerning special-bonded warehouses for storage of brandy made from apples,

peaches, grapes, pears, pineapples, oranges, apricots, berries, or prunes, exclusively.

Storekeeper and gauger is now styled storekeeper-gauger. (Act of June 28, 1902.)

Sec. 3295. [*Amended by act of July 16, 1892 (27 Stat., 201).*] Whenever an order is received from the collector for the removal from any distillery warehouse of any cask of distilled spirits on which tax has been paid, the gauger by whom the same is gauged and inspected shall, in presence of the storekeeper and before such cask has left the warehouse, place upon the head thereof, in such manner as to cover no portion of any brand or mark prescribed by law already placed thereon, a stamp, on which shall be engraved the number of proof gallons contained in said cask on which the tax has been paid, and which shall state the serial number of the cask, the name of the person by whom the tax was paid, and the person to whom and the place where it is to be delivered. Said stamp shall be signed by the collector of the district, the storekeeper and gauger, and shall be as follows:

Gauging,
stamping, and
branding spirits
removed from
warehouse.

Tax-paid stamp, No. —.

Received ———, 18—, from ———, tax on
—— gallons proof spirit, cask No. ———, ——— warehouse at
—— for delivery to ———, at ———.

Collector ——— District, State of ———.

Attest:

United States Storekeeper.

United States Gauger.

And at the time of affixing the tax-paid stamp the gauger shall, in the presence of the storekeeper, cut or burn upon each cask the name of the distiller, the district, the date of the payment of the tax, the number of proof-gallons, and the number of the stamp, which cutting or burning shall be erased when such cask is emptied.

The last words of section 3295, namely, "by cutting or burning a canceling line across such marks or brands," were struck out by amendatory act of July 16, 1892.

Alleged infringement of patent in the use of stamps. (Fletcher v. Blake, 27 Int. Rev. Rec., 6; Hollister v. Benedict and Burnham Manufacturing Co., 113 U. S., 59; 31 Int. Rev. Rec., 30.)

Regulations relative to the signing of stamps. (Regulations No. 7, pp. 114, 117, 123, 132.)

Regulations concerning the affixing of stamps to heads of spirit packages. (Cir. No. 535.)

In the case of spirit packages, the heads of which are in three parts, the Government stamp, or stamps, required to be placed upon the same, will be affixed across a joint, or joints, of the head in such a manner that each stamp shall rest over a joint at about the middle of the stamp, and so that the center piece of the head may not be removed without destroying the stamp or stamps. (Regulations No. 7, p. 162.)

Regulations concerning reduction in proof of distilled spirits in distillers' original packages. (Regulations No. 7, p. 194.)

The tax-paid stamps issued by collectors for the payment of taxes on distilled spirits are nothing more than receipts, and are worthless as receipts to other parties than those to whom they are issued. (*Woolner v. United States*, 13 Ct. Cls., 355; 24 Int. Rev. Rec., 181.)

Tax-paid spirits stamps are nothing more than receipts issued to the distiller to indicate payment of taxes on distilled spirits. They do not constitute the basis of an action against the Government in the hands of other than the distiller. *Harkins v. Williard*, 146 Fed., 703; T. D. 1030.)

Metal packages for containing nonbeverage distilled spirits for domestic use not required to be equipped with wooden surfaces for receiving brands, etc. (T. D. 2894.)

Removal, concealment, of spirits contrary to law; penalty.

Sec. 3296. Whenever any person removes, or aids or abets in the removal of any distilled spirits on which the tax has not been paid, to a place other than the distillery warehouse provided by law, or conceals or aids in the concealment of any spirits so removed, or removes, or aids or abets in the removal of any distilled spirits from any distillery warehouse, or other warehouse for distilled spirits authorized by law, in any manner other than is provided by law, or conceals or aids in the concealment of any spirits so removed he shall be liable to a penalty of double the tax imposed on such distilled spirits so removed or concealed, and shall be fined not less than two hundred dollars nor more than five thousand dollars, and imprisoned not less than three months nor more than three years.

Sections 3256, p. 208; 3279, p. 226; 3299, p. 258; 3450, p. 592.

Aiding or abetting. (*United States v. Blaisdell*, 9 Int. Rev. Rec., 82; Fed. Cas. No. 14608.)

A conviction, under section 3296, for removing distilled spirits to a place other than a distillery warehouse, or concealing them there contrary to law, is not a bar to a conviction under section 3281 for illicit distilling, because the same are different offenses; and the question of being twice in jeopardy, within the Constitution, amendment 5, does not arise. (*United States v. Three Copper Stills, etc.*, 47 Fed., 495.)

The fact that the statute makes the aiding and abetting of another in the removal of illicit spirits a distinct offense does not prevent a person so aiding and abetting from being convicted as a principal in the removal, under the rule making all participants in misdemeanors liable as principals. (*United States v. Sykes*, 58 Fed., 1000.) Sec. 332, Criminal Code.

An indictment under this section for the concealment of distilled spirits on which the tax has not been paid, removed to a place other than the distillery warehouse provided by law, which charges the performance of that act at a particular time and place, and in the language of the statutes is sufficiently certain. (*Pounds v. United States*, 171 U. S., 35.)

See *United States v. Smith*, 27 Fed., 854.

(*Pilcher v. United States*, 113 Fed., 248; *United States v. Harries*, 26 Fed. Cas. 166, No. 15309; *United States v. Nunnemacher*, 27 Fed. Cas. 197, No. 15902.)

Bond may be sued for these penalties. (*United States v. Chouteau*, 102 U. S., 603; 27 Int. Rev. Rec., 49.)

Removal without payment of tax authorizes forfeiture of distillery. (*United States v. One Distillery, etc.*, 193 Fed., 720.)

Section applies as well to removals from an illicit as from a registered distillery. (*United States v. Thompson*, 189 Fed., 838.)

Indictment charging each element of crime enumerated and substantially in language of section is sufficient. (*Rosenfeld v. United States*, 202 Fed., 460.)

SEC. 3297. The Secretary of the Treasury is authorized to grant permits to any incorporated or chartered scientific institution or college of learning to withdraw alcohol in specified quantities from bond without payment of the internal-revenue tax on the same, or on the spirits from which the alcohol has been distilled, for the sole purpose of preserving specimens of anatomy, physiology, or natural history belonging to such institution, or for use in its chemical laboratory: *Provided*, That application for permits shall be made by the president or curator of such institution, who shall file a bond for double the amount of the tax on the alcohol to be withdrawn, with two good and sufficient sureties, to be approved by the Commissioner of Internal Revenue, and conditioned that the whole quantity of alcohol so withdrawn from bond shall be used for the purposes above specified, and for no other, and that the said president or curator shall comply with such other requirements and regulations as the Secretary of the Treasury may prescribe. And if any alcohol so obtained is used by any officer, as aforesaid, of such institution for any purposes other than that above specified, then the said officer or sureties shall pay the tax on the whole amount of alcohol withdrawn from bond, together with a like amount as a penalty in addition thereto.

Alcohol withdrawn for scientific purposes by incorporated or chartered institutions.

Penalty.

Penal sum of bond. (T. D. 2821.)

Tax-free alcohol, withdrawn from bond for scientific purposes, subject to seizure and forfeiture if found on premises of wholesale liquor dealer. (T. D. 1753.)

[*Act of May 3, 1878 (20 Stat., 48), as amended by act of July 8, 1916 (39 Stat., 354).*] That the Secretary of the Treasury is authorized to grant permits, as provided for in section thirty-two hundred and ninety-seven of the Revised Statutes of the United States, for the withdrawal of alcohol from bond, free of tax to any scientific university or college of learning created and constituted as such by any State or Territory under its laws, though not incorporated or chartered, and to any hospital maintained by endowment or otherwise, and not conducted for profit, upon the same terms and subject to the same restrictions and penalties already provided by said section thirty-two hundred and ninety-seven: *Provided, however*, That alcohol so obtained by hospitals may be used in surgical operations and, except as a beverage, in the treatment of

Alcohol withdrawn for scientific purposes by institutions not incorporated.

patients, under such regulations as the Secretary of the Treasury may prescribe: *And provided further*, That the bond required by said section thirty-two hundred and ninety-seven may be executed by an officer of such hospital or institution or by any other person for it, and on its behalf, with two good and sufficient sureties, upon like conditions, and to be approved as by said section is provided.

Regulations No. 7, revised, page 238. (T. Ds. 2496, 2745.)
See section 3464, page 606.

Alcohol is the only kind of spirit that can be used free of tax for scientific purposes. (T. D. 21664.)

Alcohol classified and branded as "commercial alcohol" may be withdrawn from bond, free of tax, under the provisions of section 3297, for scientific purposes. (T. D. 1483.)

Abatement, remission, or refund.

[*Act of June 4, 1912 (37 Stat., 122).*] That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is authorized on appeal to him made to abate, remit, and refund all taxes or assessments for taxes the liability for which is asserted against any scientific institution or college of learning on account of any alcohol withdrawn from bond free of tax in accordance with the provisions of sections thirty-two hundred and ninety-seven and thirty-two hundred and ninety-seven a, Revised Statutes, and not used as authorized by the above-mentioned law and regulations thereunder: *Provided*, That no assessment made of tax imposed shall be abated or refunded as to any alcohol so withdrawn and used for beverage purposes: *And provided further*. That all applications for relief under this act shall be filed in the office of the Commissioner of Internal Revenue within one year from the date of the approval of this act, and no liability incurred on or after March first, nineteen hundred and twelve, shall be relieved against hereunder.

Section 3297a, referred to in this act, is the act of May 8, 1878, appearing herein immediately preceding this act.

Power of officers to detain packages on suspicion.

SEC. 3298. It shall be lawful for any internal-revenue officer to detain any cask or package containing, or supposed to contain, distilled spirits, when he has reason to believe that the tax imposed by law upon the same has not been paid, or that the same is being removed in violation of law; and every such cask or package may be held by him at a safe place until it shall be determined whether the property so detained is liable by law to be proceeded against for forfeiture; but such summary detention shall not continue in any case longer than forty-eight hours without process of law or intervention of the officer to whom such detention is to be reported.

Forfeiture of spirits unlawfully removed from distillery.

Act Feb. 18, 1875.

SEC. 3299. All distilled spirits found elsewhere than in a distillery or distillery warehouse, not having been removed therefrom according to law, shall be forfeited to the United States.

If agent is cognizant of fraud at time of purchase, the principal is bound. Confusion and mixture of goods by

rectification. (Harrington's Distilled Spirits, 11 Wall, 356; 13 Int. Rev. Rec., 193.)

Burden of proof. (Sec. 3333, p. 288. United States v. Eight Casks of Whisky, 7 Int. Rev. Rec., 4.)

SEC. 3300. Whenever any store-keeper or other person in the employment of the United States, having charge of a bonded warehouse, removes or allows to be removed therefrom any cask or other package, without an order or permit of the collector, or which has not been marked or stamped in the manner required by law, or removes or allows to be removed any part of the contents of any cask or package deposited therein, he shall be immediately dismissed from office or employment, and be fined not less than five hundred dollars nor more than two thousand dollars, and imprisoned not less than three months nor more than two years.

Storekeeper unlawfully removing spirits or allowing same to be removed, etc.

Penalty.

SEC. 3301. [*Amended by sec. 5, act of March 1, 1879 (20 Stat., 327).*] Every storekeeper shall keep a warehouse book, which shall at all times be open to the examination of any revenue officer, and shall enter therein an account of all articles deposited in the warehouse to which he is assigned, indicating in each case the date of deposit, by whom manufactured or produced, the number and description of the packages and contents, the quantities therein, the marks and serial numbers thereon, and by whom gauged, inspected, or weighed, and if distilled spirits, the number of gauge or wine gallons, of proof-gallons, and of taxable gallons; and before delivering any article from the warehouse he shall enter in said book the date of the permit or order of the collector for the delivery of such articles, the number and description of the packages, the marks and serial numbers thereon, the date of delivery, to whom delivered, and for what purpose, which purpose shall be specified in the permit or order for delivery; and in case of delivery of any distilled spirits the number of gauge or wine gallons, of proof-gallons, and of taxable gallons shall also be stated; and such further particulars shall be entered in the warehouse-books as may be prescribed or found necessary for the identification of the packages, to insure the correct delivery thereof and proper accountability therefor.

Storekeepers' warehouse books.

And every store-keeper shall furnish daily to the collector of the district a return of all articles received in and delivered from the warehouse during the day preceding that on which the return is made, and mail at the same time a copy thereof to the Commissioner of Internal Revenue, and shall, on the first Monday of every month, make a report in duplicate of the number of packages of all articles, with the respective descriptions thereof, as above provided, which remained in the warehouse at the date of his last report, of all articles received therein and delivered therefrom during the preceding month, and of articles remaining therein at the end

Storekeepers' returns and reports.

of said month. He shall deliver one of these reports to the collector having control of the warehouse, to be recorded and filed in his office, and transmit one to the Commissioner of Internal Revenue, to be recorded and filed in his office.

The reports made by a distiller, or by storekeepers or other officers, to a collector under the internal-revenue laws are in no sense public records, but are executive documents, which the United States in its sovereign capacity has acquired for the sole purpose of administering its own governmental affairs, and are its private property, the custody and use of which the Secretary of the Treasury has the lawful authority to control by proper regulations. (In re Cominsgore, 96 Fed., 552; T. D. 21584. Boske v. Cominsgore, 177 U. S., 459; T. D. 104.)

Storekeepers to have charge of distillery and keep accounts of materials used, etc.

SEC. 3302. The store-keeper assigned to any distillery warehouse shall, in addition to the duties required of him as store-keeper in charge of a warehouse, keep in a book to be provided for that purpose, and in the manner prescribed by the Commissioner of Internal Revenue, a daily account of all the meal and vegetable productions or other substances brought into said distillery, or on said premises, to be used for the purpose of producing spirits, from whom purchased, and when delivered at said distillery; of the kind and quantity of all fuel used, and from whom purchased; of all repairs made on said distillery, and by whom and when made; of the names and places of residence of all persons employed in or about the distillery; of the materials put into the mash-tub or otherwise used for the production of spirits; of the time when any fermenting-tub is emptied of ripe mash or beer, recording the same by the number painted on said tub; and of all spirits drawn off from the receiving-cistern, and the time when the same were drawn off.

Examination of grain distilleries and duties of examining officers. (Cir. No. 612; T. D. 439.)

Collectors are instructed to give personal attention to records kept by storekeepers and storekeeper-gaugers, particularly grain account and temperature and gravity reports. (T. D. 1628.)

Distiller's books, entries to be made.

SEC. 3303. Every person who makes or distills spirits, or owns any still, boiler, or other vessel used for the purpose of distilling spirits, or who has such still, boiler, or other vessel so used under his superintendence, either as agent or owner, or who uses any such still, boiler, or other vessel, shall from day to day make, or cause to be made, in a book or books, to be kept by him in such form as the Commissioner of Internal Revenue may prescribe, a true and exact entry of the kind of materials, and the quantity in pounds, bushels, or gallons purchased by him for the production of spirits, from whom and when purchased, and by what conveyance delivered at said distillery, the amount paid therefor, the kind and quantity of fuel purchased for use in the distillery, and from whom purchased, the amount paid for ice or water for use in the distillery,

the repairs placed on said distillery or distilling-apparatus, the cost thereof, and by whom and when made, and of the name and residence of each person employed in or about the distillery, and in what capacity employed. And in another book he shall make like entry of the quantity of grain or other material used for the production of spirits, the time of day when any yeast or other composition is put into any mash or beer for the purpose of exciting fermentation, the quantity of mash in each tub, designating the same by the number of the tub, the number of dry inches, that is to say, the number of inches between the top of each tub and the surface of the mash or beer therein at the time of yeasting, the gravity and temperature of the beer at the time of yeasting, and on every day thereafter its quantity, gravity, and temperature at the hour of twelve meridian; also, of the time when any fermenting-tub is emptied of ripe mash or beer, the number of gallons of spirits distilled, the number of gallons placed in the warehouse, and the proof thereof, the number of gallons sold or removed, with the proof thereof, and the name, place of business, and residence of the person to whom sold.

Indictment for making false entries held sufficient. (Wood v. United States, 204 Fed., 55; T. D. 1836.)

Directions for taking gravity. (T. D. 1750; T. D. 1840.)

SEC. 3304. The books of every distillery hereinbefore required shall always be kept at the distillery and be always open to the inspection of any revenue officer, and, when filled up, shall be preserved by the distiller for a period of not less than two years thereafter, and whenever required shall be produced for the inspection of any revenue officer.

Books to be open to inspection and preserved two years.

The books of a distiller required by law to be kept can be seized and used as evidence. "The United States have the right to demand their production without judicial process for all purposes connected with the revenue liabilities of the distillers or the distilleries." (Walte, C. J., in the United States Circuit Court, Eastern District of Virginia. United States v. A Distillery at Petersburg, 1 Hughes, 533; 22 Int. Rev. Rec., 195; Fed. Cas. No. 14961.)

Distillers' books. Every book kept by a distiller is, to a certain extent, a Government book, and may, under the law, be rightfully examined by the revenue officers to determine its correctness. (United States v. Parker, Mason & Co., and Roelle, Junker & Co., 21 Int. Rev. Rec., 245; 6 Biss., 350; Fed. Cas. No. 15735.)

Private books and papers seized at distillery can be used as evidence in proceedings to forfeit distillery. (Dobbins v. United States, 24 Int. Rev. Rec., 22; 96 U. S., 395.)

Seizure of private papers, page 601.

SEC. 3305. Whenever any false entry is made in, or any entry required to be made is omitted from, either of the said books mentioned in the two preceding sections, with intent to defraud or to conceal from the revenue officers any fact or particular required to be stated and entered in either of said books, or to mislead in reference thereto; or

False entries, omitting to keep or produce books; penalty.

any distiller as aforesaid omits or refuses to provide either of said books, or cancels, obliterates, or destroys any part of either of such books, or any entry therein, with intent to defraud, or permits the same to be done, or such books, or either of them, are not produced when required by any revenue officer, the distillery, distilling-apparatus, and the lot or tract of land on which it stands, and all personal property on said premises used in the business there carried on, shall be forfeited to the United States. And every person who makes such false entry, or omits to make any entry hereinbefore required to be made, with intent aforesaid, or who causes or procures the same to be done, or fraudulently cancels, obliterates, or destroys any part of said books, or any entry therein, or willfully fails to produce such books, or either of them, shall be fined not less than five hundred dollars, nor more than five thousand dollars, and imprisoned not less than six months, nor more than two years.

See *United States v. One Water Cask*, 10 Int. Rev. Rec. 93; *United States v. Stowell*, 133 U. S., 1; 36 Int. Rev. Rec., 30.)

Indictment for making false entries sufficient. (*Wood v. United States*, 204 Fed., 55; T. D. 1836.)

Using false weights or measures; penalty.

SEC. 3306. Every person who knowingly uses any false weights or measures in ascertaining, weighing, or measuring the quantities of grain, meal, or vegetable materials, molasses, beer, or other substances to be used for distillation, shall be fined not less than five hundred dollars nor more than five thousand dollars, and imprisoned not less than one year nor more than three years. Any person who uses any molasses, beer, or other substance, whether fermented on the premises or elsewhere, for the purpose of producing spirits, before an account of the same is registered in the proper book provided for that purpose, shall forfeit and pay the sum of one thousand dollars for each offense so committed.

Using unregistered materials; penalty.

Distiller's bond, suit to recover penalty. (*United States v. Zemel*, 137 Fed. 989.)

Distillers' returns of production to collector.

SEC. 3307. On the first day of each month, or within five days thereafter, every distiller shall render to the collector of the district an account in duplicate, taken from his books, stating the quantity and kind of materials used for the production of spirits each day, and the number of wine-gallons and of proof-gallons of spirits produced and placed in warehouse. And the distiller or the principal manager of the distillery shall make and subscribe the following oath, to be attached to said return:

I, _____, distiller (or principal manager, as the case may be) of the distillery at _____, do solemnly swear that, since the date of the last return of the business of said distillery, dated _____ day of _____ to _____ day of _____, both inclusive, there was produced in said distillery, and withdrawn and

placed in warehouse, the number of wine-gallons and proof-gallons of spirits; and there were actually mashed and used in said distillery, and consumed in the production of spirits therein, the several quantitles of grain, sugar, molasses, and other materials respectively hereinbefore specified, and no more.

One of the said duplicate returns shall be transmitted by the collector to the Commissioner of Internal Revenue.

Fruit distillers' returns, Form 15. (Regulations No. 7, p. 215.)

SEC. 3308. Every distiller shall make a return of the number of barrels of spirits distilled by him, counting forty gallons of proof-spirits to the barrel, whenever such return is demanded by the collector of the district.

Distillers' returns of the number of barrels distilled.

SEC. 3309. [*Amended by act of March 3, 1875, ch. 131, sec. 12 (18 Stat., 419).*] On the receipt of the distiller's return in each month, the Commissioner of Internal Revenue shall inquire and determine whether the distiller has accounted for all the grain or molasses used, and all the spirits produced by him in the preceding month.

Monthly examination of distillers' returns, assessments, etc.

If he is satisfied that the distiller has reported all the spirits produced by him, and the quantity so reported is found to be less than eighty per centum of the producing-capacity of the distillery as estimated according to law, he shall make an assessment for such deficiency at the rate of ninety cents for every proof-gallon. In determining the quantity of grain used, fifty-six pounds shall be accounted as a bushel; and if the Commissioner finds that the distiller has used any grain or molasses in excess of the capacity of his distillery as estimated according to law, he shall make an assessment against the distiller at the rate of ninety cents for every proof-gallon of spirits that should have been produced from the grain or molasses so used in excess, which assessment shall be made whether the quantity of spirits reported is equal to or exceeds eighty per centum of the producing-capacity of the distillery. If the Commissioner finds that the distiller has not accounted for all the spirits produced by him, he shall, from all the evidence he can obtain, determine what quantity of spirits was actually produced by such distiller, and an assessment shall be made for the difference between the quantity reported and the quantity shown to have been actually produced, at the rate of ninety cents for every proof-gallon:

Capacity tax.

Provided, That the actual product shall be assumed to be in no case less than eighty per centum of the producing-capacity of the distillery as estimated according to law. All assessments made under this section shall be a lien on all distilled spirits on the distillery premises, the distillery used for distilling the same, the stills, vessels, fixtures, and tools therein, the tract of land whereon the said distillery is located, and any building thereon,

Amendment made by sec. 12, act Mar. 3, 1875 (18 Stat., 402).

Sec. 12, act Mar. 3, 1875 (18 Stat., 402). Amendment.

Sec. 12, act Mar. 3, 1875 (18 Stat., 402). Amendment.

from the time such assessment is made until the same shall have been paid.

When a fruit distiller has received pomace, in the absence of any explanation otherwise accounting for it, it is justifiable to infer that the material was used in the production of spirits at the rate of 1 gallon to 14 gallons of pomace. (*United States v. Cole*, 134 Fed., 697; T. D. 786.)

It is well settled that a distiller is legally liable to a tax on his entire actual product, and on a quantity equal at least to 80 per centum of the producing capacity of his distillery as fixed by the survey, however small the actual product may be. (*United States v. Singer*, 15 Wall., 111; 17 Int. Rev. Rec., 9. *Collector v. Beggs*, 17 Wall., 182; 17 Int. Rev. Rec., 164. *United States v. Ferrary*, 93 U. S. 625; 22 Int. Rev. Rec., 394.)

Construction of the statute and method of computation. (*Stoll v. Pepper*, 97 U. S. (7 Otto), 438; 25 Int. Rev. Rec., 2. *Weltzel v. Rabe*, 103 U. S., 340. See also *United States v. Nissley*, 1 Dillon, 586; 13 Int. Rev. Rec., 174; Fed. Cas. No. 15893; *Pahlman v. Collector*, 20 Wall., 180; 19 Int. Rev. Rec., 171; *Turner v. Williams*, 18 Int. Rev. Rec., 6; Fed. Cas. No. 14265.)

The producing capacity of a distillery, and not the amount of spirits produced, is made the measure of taxation. (*United States v. Halloran*, 14 Blatch, 1; Fed. Cas. No. 15, 286.)

In a suit for taxes under section 3300 the original assessment list signed by the Commissioner is evidence of assessment, and the original report of survey and certificate of collector of delivery of triplicate copy to distiller are competent evidence. (*United States v. Bristow*, 20 Fed., 378.)

Distiller's bond liable for tax. (*United States Fidelity and Guaranty Co. v. United States*, 201 Fed., 91; T. D. 1824.)

If a distiller uses material for distillation in excess of the estimated capacity of his distillery according to the survey, but, in the regular course of his business, pays the tax upon his entire production, he can not be again assessed the regular gallon tax on the spirits which the excess of material used should have produced. (*Runkle v. Citizens' Insurance Co. of Pittsburg, Pa.*, 6 Fed., 143.)

The provision under this section that if the Commissioner of Internal Revenue, on making a monthly examination of a distiller's return, "finds that the distiller has used any grain or molasses in excess of the capacity of his distillery as estimated according to law, he shall make an assessment against the distiller," etc., refers to the real average spirit-producing capacity of the distillery, and not to a fictitious capacity for any particular day or days. (*Chicago Distilling Co. v. Stone*, 140 U. S., 647; 37 Int. Rev. Rec., 206.)

See on this section *Stowell v. Williams, jr.*, 17 Int. Rev. Rec., 38; Fed. Cas. No. 13515. *Daley v. United States*, 16 Int. Rev. Rec., 147; Fed. Cas. No. 3542; *Hartman v. Bean*, 99 U. S., 393; 25 Int. Rev. Rec., 141.

The distiller is required to produce at least 80 per cent of the producing capacity of his distillery. If he uses defective fruit or material from which he can not produce 80 per cent, he does so with full knowledge that he will be assessed on the basis of 80 per cent of his producing capacity. (*United States v. Ball*, 1908, 163 Fed., 504.)

Exemption of
ethyl alcohol.

SEC. 602. [Act of February 24, 1919 (40 Stat., 1057).]
The Commissioner, with the approval of the Secretary, may by regulations exempt distillers of ethyl alcohol, for use in the production of munitions of war, or for other

nonbeverage purposes, from so much of the provisions of sections * * * 3309 of the Revised Statutes, and Acts amendatory thereof, * * * as, in his judgment, may be expedient: *Provided*, That the bond prescribed in section 3260 of the Revised Statutes shall, in the cases herein provided, be in such sum and contain such further conditions as the Commissioner may require.

SEC. 6. [*Act of March 1, 1879 (20 Stat., 327)*, amended by sec. 8, act of May 28, 1880 (21 Stat., 145).] That whenever, under the provisions of section thirty-three hundred and nine of the Revised Statutes, an assessment shall have been made against a distiller for a deficiency in not producing eighty per centum of the producing capacity of his distillery as established by law, or for the tax upon the spirits that should have been produced from the grain, or fruit, or molasses found to have been used in excess of the capacity of his distillery for any month, as estimated according to law, such excessive use of grain, or fruit, or molasses having arisen from a failure on the part of the distiller to maintain the capacity required by law to enable him to use such grain, or fruit, or molasses without incurring liability to such assessment, and it shall be made to appear to the satisfaction of the Commissioner of Internal Revenue that said deficiency, or that said failure, whereby such excessive use of grain, molasses, or fruit arose, was not occasioned by any want of diligence or by any fraudulent purpose, on the part of the distiller, but from misunderstanding as to the requirements of the law and regulations in that respect or by reason of unavoidable accidents, then, and in such case, the Commissioner of Internal Revenue, subject to regulations prescribed by the Secretary of the Treasury is authorized, on appeal made to him, to remit or refund such tax, or such part thereof as shall appear to him to be equitable and just in the premises.

Relief from assessments for deficiencies, etc., in certain cases.

And the Commissioner of Internal Revenue upon the production to him of satisfactory proof of the actual destruction, by accidental fire or other casualty and without any fraud, collusion, or negligence of the distiller of any spirits in process of manufacture or distillation, or before removal to the distillery warehouse, shall not assess the distiller for a deficiency in not producing eighty per centum of the producing capacity of his distillery as established by law when the deficiency is occasioned by such destruction, nor shall he, in such case, assess the tax on the spirits so destroyed:

Accidental fire or other casualty.

Provided, That no tax shall be remitted or refunded under the provisions of this section upon any assessment made prior to January first, eighteen hundred and seventy-four:

Distillers of fruit exempt from such assessments, except, etc.

Provided further, That no assessment shall be charged against any distiller of fruit for any failure to maintain the required capacity, unless the Commissioner shall,

within six months after his receipt of each monthly report notify such distiller of such failure so to maintain the required capacity.

United States v. Ball (C. C. A.), 163 Fed., 504.

No distiller of fruit brandy to be reported for assessment on account of brandy produced and unaccounted for until determination of taxes due under section 3309, Revised Statutes, nor until due notice is given the distiller as required by regulations. (T. D., 1555.)

Statutory relief in cases of assessments under this section. (Regulations No. 7, revised, 1914, pp. 86-92.)

Rate of tax.

SEC. 60. [*Act of August 27, 1894 (28 Stat., 509).*] That all assessments made under the provisions of section thirty-three hundred and nine of the Revised Statutes of the United States, and Acts amendatory thereof, shall be at the rate of tax imposed by this Act on each proof gallon.

Fermenting period.

SEC. 3310. [*Amended by act of February 27, 1877 (19 Stat. 240), and sec. 7, act of May 28, 1880 (21 Stat. 145).*] The first fermenting period of every distiller shall be taken to begin on the day the distiller's bond is approved; and every distiller at the hour of twelve meridian on the last day of such fermenting period, or at the same hour on any previous day of such fermenting period on which spirits are distilled, shall be deemed to have commenced, and thereafter to be continuously engaged in, the production of distilled spirits in his distillery, except in the intervals when he shall suspend work as hereinafter provided.

Suspension of work.

Any distiller desiring to suspend work in his distillery may give notice in writing to the collector of the district, stating when he will suspend work; and on the day mentioned in said notice said collector or one of his deputies shall, at the expense of the distiller, proceed to fasten securely the door of every furnace of every still or boiler in said distillery, by locks and otherwise, and shall adopt such other means as the Commissioner of Internal Revenue may prescribe to prevent the lighting of any fire in such furnace or under such stills or boilers. The locks and seals, and other materials required for such purpose, shall be furnished to the collector by the Commissioner of Internal Revenue, to be duly accounted for by said collector. Such notice by any distiller, and the action taken by the collector in pursuance thereof, shall be immediately transmitted to the Commissioner of Internal Revenue. No distiller, after having given such notice, shall, after the time stated therein, carry on the business of a distiller on said premises until he gives another notice in writing to said collector, stating the time when he will resume work; and at the time so stated for resuming work the collector or one of his deputies shall attend at the distillery to remove said locks and other fastenings; and thereupon, and not before, work may be resumed in said distillery, which fact shall be immediately reported

to the collector of the district, and by him transmitted to the Commissioner of Internal Revenue.

Every distiller who, after the time fixed in said notice declaring his intention to suspend work, carries on the business of a distiller on said premises, or has mash, wort, or beer in his distillery, or on any premises connected therewith, or has in his possession or under his control any mash, wort, or beer, with intent to distill the same on said premises, shall incur the forfeitures and be subject to the same punishment as provided for persons who carry on the business of a distiller without having given the bonds required by law.

Carrying on business after notice of suspension.

Penalties; sec. 3260.

But nothing in this section shall be held to apply to suspensions caused by unavoidable accident; and the Commissioner of Internal Revenue shall prescribe regulations to govern such cases of involuntary suspension.

Suspensions caused by unavoidable accidents. Verbal amendment. Act Feb. 27, 1877.

A distiller has one full fermenting period to prepare his mash or beer for distillation, and the liability to the 80 per cent capacity commences on the last day of such period, or on any previous day on which spirits are distilled. (Regulations No. 7, revised, p. 57.)

When a nominal change shall occur at a distillery, by reason of a change in the name or style in which the operations at the distillery are conducted, it will not be required that the business of producing spirits shall be completely finished and operations suspended by the distiller desiring to change his name or style before the business shall be undertaken or begun by him under a different name or style; nor will he be required to give notice of suspension upon Form 124. (Regulations No. 7, p. 11.)

SEC. 3311. Whenever any distiller desires to reduce the producing-capacity of his distillery, he shall give notice of such intention, in writing, to the collector, stating the quantity of spirits which he desires thereafter to manufacture or produce every twenty-four hours, and thereupon said collector shall proceed, at the expense of the distiller, to reduce and limit the producing-capacity of the distillery to the quantity stated in said notice, by placing upon a sufficient number of the fermenting-tubs close-fitting covers, which shall be securely fastened by nails, seals, and otherwise, and in such manner as to prevent the use of such tubs without removing said covers or breaking said seals, and shall adopt such other precautions as may be prescribed by the Commissioner of Internal Revenue to reduce the capacity of said distillery.

Reduction of capacity.

And every person who breaks, injures, or in any manner tampers with any lock, seal, or other fastening applied to any furnace, still, or fermenting-tub, or other vessel, in pursuance of the provisions of law, or who opens or attempts to open any door, tub, or other vessel, which is locked or sealed, or otherwise closed or fastened as herein provided, or who uses any furnace, still, or fermenting-tub, or other vessel, which is so locked, sealed, or fastened, shall be deemed guilty of a felony, and shall be fined not less than one thousand dollars nor more than five thou-

Tampering with locks, etc.; penalty.

sand dollars, and imprisoned for not less than one year nor more than three years. (Sec. 3268, R. S.)

Weitzel v. Rabe, 103 U. S., 340.

Stamps, how prepared and issued.

SEC. 3312. All stamps required for distilled spirits shall be engraved in their several kinds in book-form, and shall be issued by the Commissioner of Internal Revenue to any collector, upon his requisition, in such numbers as may be necessary in the several districts. Each stamp shall have an engraved stub attached thereto, with a number thereon corresponding with an engraved number on the stamp, and the stub shall not be removed from the book. And there shall be entered on each stub such memoranda of the contents of its corresponding stamp as shall be necessary to preserve a perfect record of the use of such stamp when detached.

Traffic in and possession of internal-revenue stamps. (11 Int. Rev. Rec., 57.)

Counterfeiting stamps. (Sec. 5414, Appendix, p. 680.)

Stamps, form of, how used.

SEC. 3313. On every stamp for the payment of tax on distilled spirits there shall be engraved words and figures representing a decimal number of gallons, and on the stub corresponding to such stamp there shall be engraved a similar number of gallons, and between the stamp and the stub, and connecting them, shall be engraved nine coupons, which, beginning next to the stamp, shall indicate in succession the several numbers of gallons between the number named in the stamp and the decimal number next above. And whenever any collector receives the tax on the distilled spirits contained in any cask, he shall detach from the book a stamp representing the denominate quantity nearest to the quantity of proof-spirits in such cask, as shown by the gauger's return, with such number of the coupons attached thereto as shall be necessary to make up the whole number of proof-gallons in said cask; * * * All unused coupons shall remain attached to the marginal stub, and no coupon shall have any value or significance when detached from the stamp and stub. And the tax-paid stamps with the coupons may denote such number of gallons, not less than twenty [ten], as the Commissioner of Internal Revenue may deem advisable.

Part indicated by * * * obsolete. (Sec. 48, act of August 28, 1894. See sec. 3251, p. 192.)

Fractional gallons. (See sec. 48, act of August 27, 1894; p. 193.)

The act of May 28, 1890, amending section 3287, page 234, provided for original packages of a distiller of not less than 10 wine gallons' capacity, thus modifying the last clause of the above section without specifically amending it.

The tax-paid stamps issued by collectors for the payment of taxes on spirits are nothing more than receipts, and are worthless as receipts to other parties than those to whom they are issued. (A. & S. Woolner v. United States, 13 Ct. Cls. 355; 24 Int. Rev. Rec., 181.)

Tax-paid spirit stamps containing coupons for the fractional parts of a gallon. (Circular Letter of Dec. 21, 1894; 40 Int. Rev. Rec. 405.)

SEC. 3314. [*Amended by sec. 5, act of March 1, 1879 (20 Stat., 327), and by sec. 16, act of May 28, 1880 (21 Stat., 145).*] The books of tax-paid stamps issued to any collector shall be charged to his account at the full value of the tax on the number of gallons represented on the stamps and coupons contained in said books; and every collector shall make a monthly return to the Commissioner of Internal Revenue of all tax-paid stamps issued by him to be affixed to any cask or package containing distilled spirits on which the tax has been paid, and account for the amount of the tax collected; and when the said collector returns to the Commissioner of Internal Revenue any book of marginal stubs, which it shall be his duty to do as soon as all the stamps contained in the book when issued to him have been used, and accounts for the tax on the number of gallons represented on the stamps and coupons that were contained in said book, there shall be allowed to the collector a commission of one-half of one per centum on the amount of such tax, in addition to any other commission by law allowed: *Provided*, That the total net compensation of collectors as fixed by this title shall not be thereby increased. All stamps relating to distilled spirits, other than the tax-paid stamps, shall be charged to collectors; and the books containing such stamps may be intrusted by any collector to the gauger of the district, who shall make a daily report to the collector of all such stamps used by him and for whom used; and when all the stamps contained in any such book have been issued, the gauger of the district shall return the book to the collector, with all the marginal stubs therein: *Provided*, That all export stamps issued to collectors shall be charged to them as representing the value of ten cents for each stamp, and they shall collect the amount due for such stamps at the rate of ten cents for each stamp issued in such manner and at such time as the Commissioner of Internal Revenue may prescribe, and the Commissioner may, in his discretion, make assessment therefor.

Accountability
for stamp-books.

Commissions.

Export stamps.

The stamps having a money value are as follows, *viz*: Tax-paid, \$1.10 per gallon; case stamps for spirits bottled in bond, 10 cents each, and exportation stamps for spirits in original casks, 10 cents each, and for spirits in wooden packages, each containing two or more metallic cans, each having a capacity of not less than 5 gallons wine measure, 5 cents each. (Regulations No. 7, revised, p. 112, sec. 3330, p. 281; act Mar. 3, 1897, p. 291; act Feb. 21, 1899, p. 234.)

In *United States v. Landram* (118 U. S., 81; 32 Int. Rev. Rec. 151) it was held that the right of collectors to commissions on taxes collected by the sale of tax-paid spirit stamps was not taken from them by section 2, act of March 1, 1879. (Sec. 3148, amended, p. 76.)

Circular No. 306. Collectors' commissions on sale of tax-paid spirit stamps. (32 Int. Rev. Rec., 325.)

SEC. 606. [*Act of February 24, 1919 (40 Stat., 1057).*] That hereafter collectors shall not furnish wholesale

Stamps for
rectified spirits.

liquor dealer's stamps in lieu of and in exchange for stamps for rectified spirits unless the package covered by stamp for rectified spirits is to be broken into smaller packages.

Discontinuance
of stamps.

The Commissioner, with the approval of the Secretary, is authorized to discontinue the use of the following stamps whenever in his judgment the interests of the Government will be subserved thereby:

Distillery warehouse, special bonded warehouse, special bonded rewarehouse, general bonded warehouse, general bonded retransfer, transfer brandy, export tobacco, export cigars, export oleomargarine, and export fermented-liquor stamps.

The use of distillery warehouse, special bonded warehouse, special bonded rewarehouse, general bonded warehouse, general bonded retransfer, and transfer brandy stamps discontinued on and after November 1, 1917. (T. D. 2548.)

Restamping
tax-paid spirits,
tobacco, cigars,
snuff, cigarettes,
and fermented
liquors.

SEC. 3315. [*Amended by sec. 5, act of March 1, 1879 (20 Stat., 327) and by sec. 1315, act of February 24, 1919 (40 Stat., 1057).*] The Commissioner of Internal Revenue may, under regulations prescribed by him with the approval of the Secretary of the Treasury, issue stamps for restamping packages of distilled spirits, tobacco, cigars, snuff, cigarettes, fermented liquors, and wines which have been duly stamped but from which the stamps have been lost or destroyed by unavoidable accident.

Redemption of stamps (p. 552).

Restamping packages of spirits, tobacco, cigars, snuff, cigarettes, fermented liquors, and denatured alcohol. (Cir. No. 705; T. D. 1226; T. D. 1672; T. D. 1869.)

Packages of fermented liquors may be restamped under direction of the collector. (T. D. 1672.)

Amending regulations No. 7, concerning restamping of packages of spirits from which stamps have been lost or destroyed by unavoidable accident. (T. D., 1532; Regulations No. 7, revised, 1914, pp. 114, 115.)

Officer using,
or issuing, or
permitting use of
stamps contrary
to law.

SEC. 3316. Whenever any revenue officer affixes or cancels, or causes or permits to be affixed or canceled, any stamp relating to distilled spirits provided for by law, in any other manner or in any other place, or issues the same to any other person than as provided by law, or by regulation made in pursuance thereof, or knowingly affixes, or permits to be affixed, any such stamp to any cask or package of spirits of which the whole or any part has been distilled, rectified, compounded, removed, or sold, in violation of law, or which has in any manner escaped payment of tax due thereon, he shall, for every such offense, be fined not less than five hundred dollars nor more than three thousand dollars, and be imprisoned for not less than six months nor more than three years.

Penalty.

Affixing imi-
tation stamp on
packages of dis-
tilled spirits.

SEC. 17. [*Act February 8, 1875 (18 Stat., 307).*] That if any person shall affix, or cause to be affixed, to or upon any cask or package containing, or intended to con-

tain, distilled spirits, any imitation stamp or other engraved, printed, stamped, or photographed label, device, or token, whether the same be designed as a trade mark, caution notice, caution, or otherwise, and which shall be in the similitude or likeness of, or shall have the resemblance or general appearance of, any internal-revenue stamp required by law to be affixed to or upon any cask or package containing distilled spirits, he shall, for each offense, be liable to a penalty of one hundred dollars, and, on conviction, shall be fined not more than one thousand dollars, and imprisoned not more than three years, and the cask or package with its contents shall be forfeited to the United States.

Penalty.

The statute prohibits the use of any device in the similitude of, or having the general appearance of, a stamp required by the internal-revenue laws for distilled spirits. The Commissioner of Internal Revenue has not adopted a standard as to what devices of this kind are allowable and what are prohibited. (T. D. 507; T. D. 607; Regulations No. 7, revised, p. 131.)

Wholesale liquor dealers and rectifiers who place such stamps on packages containing distilled spirits must do so at their own risk if they are in any wise in the similitude of stamps required for spirits. (T. D. 550; Regulations, No. 7, revised, p. 132.)

SEC. 3317. [*Amended by sec. 5, act of March 1, 1879 (20 Stat., 327).*] That on or before the tenth day of each month every person engaged in rectifying or compounding distilled spirits shall make, in such form as may be prescribed by the Commissioner of Internal Revenue, a return to the collector of the district, showing the quantity of spirits received for rectification, and from whom received, the quantity dumped for rectification, the quantity rectified, the quantity removed after rectification during the preceding month, and giving such other information as may be required by the Commissioner of Internal Revenue, such return to be made in duplicate and sworn to by the rectifier; and the collector shall forward one of such returns to the Commissioner of Internal Revenue.

Rectifiers' returns.

Every person who engages in, or carries on, the business of a rectifier with intent to defraud the United States of the tax on the spirits rectified by him, or any part thereof, or with intent to aid, abet, or assist any person or persons in defrauding the United States of the tax on any distilled spirits, or who shall purchase or receive or rectify any distilled spirits which have been removed from a distillery to a place other than the distillery-warehouse provided by law, knowing or having reasonable grounds to believe that the tax on said spirits, required by law, has not been paid, shall, for every such offense, be fined not less than one thousand dollars nor more than five thousand dollars, and imprisoned not less than six months nor more than two years.

Rectifiers intending to defraud.

Penalties.

Indictment under section 3317. (*Rosenfeld v. United States*, 202 Fed., 469.)

Rectifier defined. (T. D. 1732.)

As to employee swearing to returns. (32 Int. Rev. Rec., 165; T. D. 1046; modified by T. D. 1646.)

Carrying on business as rectifiers, with intent to defraud. (*Sprinkle v. United States*, 141 Fed., 811; *Angle v. United States*, 162 Fed., 264; *United States v. Byrne*, 7 Fed., 963.)

Rectifiers' notice of intention to rectify.

[*Act of July 16, 1892 (27 Stat., 200).*] When any rectifier intends to rectify or compound any distilled spirits he shall, before emptying any package of distilled spirits for that purpose, give notice in duplicate to the collector of internal revenue for the district of his intention so to rectify, and submit such package for the inspection of a United States gauger, who shall duly weight or gauge such package and its contents and make due return thereof, and such spirits shall not be emptied for rectification, nor rectified or compounded in the package, until gauged or weighed as herein above provided. And such notice and return shall be made in such form and contain such particulars as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may from time to time prescribe.

Gauging.

Penalty. (See sec. 3323, R. S., amended.)

Regulations concerning marking, reporting, and accounting for sweetened spirits at rectifying houses. (Regulations No. 7, pp. 99, 104, 108, 110.)

Addition of caramel or burnt sugar. (T. D. 1306.)

Extracting spirits (soakage) from wood of empty packages. (T. D. 1823.)

See Act of March 4, 1915, p. 275, authorizing gauge for dumping to be done by rectifier under regulations to be made by the Commissioner and approved by the Secretary. (T. Ds. 2176, 2207, 2219, and 2240.)

Instructions as to use of 27 B packages and original packages on premises of rectifiers. (T. D. 1801.)

Books to be kept by rectifiers and wholesale dealers.

SEC. 3318. [*Amended by act of February 27, 1877 (19 Stat., 248) and by sec. 5, act of March 1, 1879 (20 Stat., 339).*] Every rectifier and wholesale liquor-dealer shall provide a book, to be prepared and kept in such form as may be prescribed by the Commissioner of Internal Revenue, and shall, on the same day on which he receives any foreign or domestic spirits, and before he draws off any part thereof, or adds water or anything thereto, or in any respect alters the same, enter in such book, and in the proper columns respectively prepared for the purpose, the date when, the name of the person or firm from whom, and the place whence the spirits were received, by whom distilled, rectified, or compounded, and when and by whom inspected, and, if in the original package, the serial number of each package, the number of wine-gallons and proof-gallons, the kind of spirit, and the number and kind of adhesive stamps thereon. And every such rectifier and wholesale dealer shall, at the time of sending out of his stock or possession any spirits, and before the same are removed from his premises, enter in like manner in said book the day when and the name and place of business of the person or firm to whom such spirits are to be sent, the quantity and kind or quality of such spirits, the number of gallons and fractions of a gallon at proof, and,

if in the original packages in which they were received, the name of the distiller and the serial number of the package. Every such book shall be at all times kept in some public or open place on the premises of such rectifier or wholesale dealer for inspection, and any revenue officer may examine it and take an abstract therefrom; and when it has been filled up as aforesaid, it shall be preserved by such rectifier or wholesale liquor-dealer for a period not less than two years; and during such time it shall be produced by him to every revenue officer demanding it.

And whenever any rectifier or wholesale liquor-dealer refuses or neglects to provide such book, or to make entries therein as aforesaid, or cancels, alters, obliterates, or destroys any part of such book, or any entry therein, or makes any false entry therein, or hinders or obstructs any revenue officer from examining such book, or making any entry therein, or taking any abstract therefrom; or whenever such book is not preserved or is not produced by any rectifier or wholesale liquor-dealer as hereinbefore directed, he shall pay a penalty of one hundred dollars, and shall on conviction be fined not less than one hundred dollars nor more than five thousand dollars, and imprisoned not less than three months nor more than three years.

Penalties.

That every person required to keep the books prescribed by this section shall, on or before the tenth day of each month, make a full and complete transcript of all entries made in such book during the month preceding, and, after verifying the same by oath, shall forward the same to the collector of the district in which he resides. Any failure by reason of refusal or neglect to make said transcripts shall subject the person so offending to a fine of one hundred dollars for each neglect or refusal.

Transcripts.

Penalty.

Law construed and applied. Where parties are both wholesale and retail dealers in the same place. (*United States v. Malone*, 8 Ben., 574; 22 Int. Rev. Rec., 403; Fed. Cas. No. 15713.)

Importers must keep the wholesale liquor dealers' book. (*United States v. McCullough*, 22 Int. Rev. Rec., 202; Fed. Cas. No. 15685.)

Recovery of penalty of \$100 in a civil action no bar to criminal proceedings. (Case of *Leszynsky*, 25 Int. Rev. Rec., 71; 16 Blatch., 9; Fed. Cas. No. 8279.)

The duty of making entries in the book may be delegated to a clerk, but the dealers and rectifiers are responsible if the proper entries are not made. (*United States v. 50 Barrels Whisky*, 11 Int. Rev. Rec., 94; Fed. Cas. No. 15091; *United States v. Amann*, Fed. Cas. No. 14438.)

Oath should be made by the principal instead of employee. (32 Int. Rev. Rec., 165.)

Verification of returns. (T. Ds. 1039, 1046, 1212, 1646.)

Forms 52-A and 122. (T. D. 1626.)

Revision of Form 45. (T. D. 353.)

Rectifiers' returns. (T. D. 1714.)

A wholesale liquor dealer who deals exclusively in wines or malt liquors not required to keep the book. (13 Int. Rev. Rec., 161.)

In an indictment under this section it is not necessary to specify the name of the person to whom, or the place where, the casks were sent. That is a matter of evidence. (*Williams v. United States*, 156 Fed., 30.)

Indictment under section 3318. (*United States v. Miller*, 14 Blatch., 93, Fed. Cas. No. 15771.)

The statute refers only to wholesale dealers in spirits. A wholesale dealer in malt liquors is not required to keep the book. (*United States v. Reagan*, Fed. Cas. No. 16123; 15 Int. Rev. Rec., 8.)

Transcripts must be filed. (*Brown v. Harkins*, 131 Fed., 63.)

Cases of whisky bottled in bond should be entered on book Form 52. (T. D. 808; Regs. No. 23, revised, p. 23.)

It is not necessary for a person qualifying as rectifier, for the sole purpose of rectifying for other persons, to qualify as wholesale liquor dealer. How book Form 52 should be kept. (T. D. 640.)

Separate record to be kept covering all distilled spirits received and disposed of by wholesale liquor dealers. (T. Ds. 2571, 2655.)

Distiller re-
quired to keep
book. Sec. 3318,
R. 8.

SEC. 62. [*Act of August 27, 1894 (28 Stat., 509).*] That no distiller who has given the required bond and who sells only distilled spirits of his own production at the place of manufacture, or at the place of storage in bond, in the original packages to which the tax-paid stamps are affixed, shall be required to pay the special tax of a wholesale liquor dealer on account of such sales: *Provided*, That he shall be required to keep the book prescribed by section thirty-three hundred and eighteen of the Revised Statutes of the United States, or so much as shall show the date when he sent out any spirits, the serial numbers of the packages containing same, the kind and quality of the spirits in wine gallons and taxable gallons, the serial numbers of the stamps on the packages, and the name and residence of the person to whom sent; and the provisions of section five of an Act entitled "An Act to amend the laws relating to internal revenue" approved March fifth, eighteen hundred and seventy-nine, as to transcripts, shall apply to such books. Any failure, by reason of refusal or willful neglect, to furnish the transcript by him shall subject the spirits owned or distilled by him to forfeiture.

Purchase of
quantities great-
er than 20 gal-
lons from one
person, etc.

Penalty.

SEC. 3319. It shall not be lawful for any rectifier of distilled spirits, or wholesale or retail liquor-dealer, to purchase or receive any distilled spirits in quantities greater than twenty gallons from any person other than an authorized rectifier of distilled spirits, distiller, or wholesale liquor-dealer. Every person who violates this section shall forfeit and pay one thousand dollars: *Provided*, That this provision shall not be held to apply to judicial sales, or to sales at public auction made by an auctioneer.

The exception made in this proviso is extended to certain other sales by section 4, act of March 1, 1879, amending section 3244, paragraph 5, page 170.

If a rectifier purchases from an authorized distiller, who is not an authorized rectifier or an authorized wholesale

liquor dealer, distilled spirits, in quantities greater than 20 gallons, which were not produced by such authorized distiller, such purchaser is liable to the penalty imposed by section 3319. (*The New York Rectifying Co. v. United States*, 14 Blatch., 549; *Fed. Cas. No. 10214*.)

The word "receive" as used in this section means receive for sale, and that where a retail dealer receives more than 20 gallons of spirits from any person other than one authorized by the act to sell such spirits, for storage only, and not for sale, he does not incur the penalty. (*United States v. Fridenberg*, 11 *Int. Rev. Rec.*, 5; *Fed. Cas. No. 15168*.)

SEC. 3320. [*Amended by act of July 16, 1892 (27 Stat., 183) and by sec. 66, act of August 27, 1894 (28 Stat., 509).*] Whenever any cask or package, containing five wine gallons or more, is filled for shipment, sale, or delivery on the premises of any rectifier who has paid the special tax required by law, it shall be inspected and gauged by a United States gauger whose duty it shall be to mark and brand the same and place thereon an engraved stamp, which shall state the date when affixed and the number of proof gallons, and shall be in such form as shall be prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury: *Provided*, That when such cask or package is filled on the premises of a rectifier rectifying less than five hundred barrels a year, counting forty gallons of proof spirits to the barrel, it may be gauged, marked, branded, and stamped by a United States gauger, or it may be gauged, marked, branded, and stamped by the rectifier, as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulations prescribe.

Gauging and stamping of rectified spirits.

The act of July 20, 1868, imposed a tax of 25 cents each on stamps for rectified spirits and wholesale liquor dealers' packages.

This rate was in force until August 1, 1872. (*Act of June 6, 1872*.)

The act of June 6, 1872, reduced the price of these stamps to 10 cents, which continued until the taking effect of the act of May 28, 1880, since which time no charge has been made for rectifiers' or wholesale liquor dealers' stamps. (*Commissioner's reports*, 1905, p. 5; 1910, p. 18.)

Rectified spirits stamps must be signed by gaugers on the date they affixed them. (40 *Int. Rev. Rec.*, 413.)

Spirits reduced in proof by addition of water only not to be stamped as rectified spirits. (*T. D. 1749*.)

SEC. 1. [*Act of March 4, 1915 (38 Stat., 1017).*—*Ex-tract.*] Whenever any cask or package of distilled spirits containing five wine gallons or more is dumped by a rectifier for rectification or filled and received from rectification for sale, shipment, or delivery the same shall be gauged, marked, branded, and stamped by a United States gauger; but the Commissioner of Internal Revenue may by regulations, approved by the Secretary of the Treasury, provide that the gauging, marking, stamping, and branding of such packages so dumped for rectifica-

Gauging at rectifying establishments by rectifiers. (*T. D. 2176*.)

tion, or received therefrom, be done by the rectifier instead of by a United States gauger.

This provision amends act of July 16, 1892 (see p. 272), and also section 3320, as amended.

Regulations concerning the gauging, marking, branding, and stamping of distilled spirits by rectifiers, under act of March 4, 1915, No. 7, revised—Supplement No. 1. (T. D. 2207.)

Additional instructions in connection with the gauging of distilled spirits at rectifying houses after July 1, 1915. (T. D. 2219.)

Regulations concerning the gauging and marking of distilled spirits at rectifying houses. (Regulations, No. 7, pp. 178-182; Circa. 737, 738, 740; T. D. 2207; T. D. 2240.)

Violations of law and regulations by wholesale liquor dealers and rectifiers. (Cir. No. 616; T. D. 455.)

Marks on packages put up by wholesale liquor dealers. (Cir. No. 652; T. D. 734.)

Brands in spiral form are no longer to be used on rectifiers' packages of spirits. (T. D. 721.)

Obscure marking and branding. (T. D. 566.)

SEC. 3321. [*Repealed by act of August 15, 1876 (19 Stat., 152).*]

Filling blanks.
Affixing and var-
nishing stamps.

SEC. 3322. All blanks in any of the forms prescribed in the preceding sections shall be duly filled in accordance with the facts in each case. And the stamps therein designated shall in every case be affixed to a smooth surface of the cask or other package, which surface shall not have been previously painted or covered with any substance, and so as to fasten the same securely to the cask or package, and shall be duly canceled, and shall then be immediately covered with a coating of transparent varnish, or other substance, so as to protect them from removal or damage by exposure; and such affixing, cancellation, and covering shall be done in such manner as the Commissioner of Internal Revenue may by regulation prescribe.

Wholesale
liquor dealers to
mark, brand, and
stamp packages.

SEC. 3323. [*Amended by the act of July 16, 1892 (27 Stat., 200).*] Every package of distilled spirits containing five wine gallons or more, filled on the premises of a wholesale liquor dealer, who has paid the special tax required by law, shall be marked, branded, and stamped by such wholesale liquor dealer in such manner and under such rules and regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe; and on or before the tenth day of each month every wholesale liquor dealer shall make return, under oath, to the collector of internal revenue for the district of the various kinds and quantities of each kind and of the total quantities of distilled spirits received on his premises and of the various kinds and quantities of each kind and of the total quantity of distilled spirits sent out from his stock or possession during the preceding month, and of the quantity of each kind and the total quantity remaining on hand at the end of the month; and such return shall be made in such

Returns.

Form.

form and contain such other particulars as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe. And every rectifier or wholesale liquor dealer who refuses or willfully neglects to comply with the requirements of this act as to giving the said notice or the said return, and as to marking, branding, and stamping, in accordance with the law and the regulations made in pursuance thereof, the packages of spirits filled on his premises as aforesaid, shall, for each such offense, be fined not less than two hundred dollars nor more than one thousand dollars. Penalty.

Spurious labels. (T. D. 286.)

Reduction in proof of distilled spirits in distillers' original packages. (Regs. No. 7, revised, p. 189.)

Section 3289, Revised Statutes, provides forfeiture if spirits are not marked and branded as required. (United States v. 7 Bbls. of Whiskey, 131 Fed., 806.)

SEC. 3324. Every person who empties or draws off, or causes to be emptied or drawn off, any distilled spirits from a cask or package bearing any mark, brand, or stamp, required by law, shall, at the time of emptying such cask or package, efface and obliterate said mark, stamp, or brand. Every such cask or package from which said mark, brand, or stamp is not effaced and obliterated as herein required, shall be forfeited to the United States, and may be seized by any officer of internal revenue, wherever found. And every railroad company or other transportation company, or person who receives or transports, or has in possession with intent to transport, or with intent to cause or procure to be transported, any such empty cask or package, or any part thereof, having thereon any brand, mark, or stamp, required by law to be placed on any cask or package containing distilled spirits, shall forfeit three hundred dollars for each such cask or package, or any part thereof, so received or transported, or had in possession with the intent aforesaid; and every boat, railroad-car, cart, dray, wagon, or other vehicle, and all horses and other animals used in carrying or transporting the same shall be forfeited to the United States. Every person who fails to efface and obliterate said mark, stamp, or brand, at the time of emptying such cask or package, or who receives any such cask or package, or any part thereof, with the intent aforesaid, or who transports the same, or knowingly aids or assists therein, or who removes any stamp provided by law from any cask or package containing, or which had contained, distilled spirits, without defacing and destroying the same at the time of such removal, or who aids or assists therein, or who has in his possession any such stamp so removed as aforesaid, or has in his possession any canceled stamp, or any stamp which has been used, or which purports to have been used, upon any cask or package of distilled spirits, shall be deemed Stamps and brands to be effaced from empty casks.

Penalties for omitting to efface and for transportation in violation of law.

guilty of a felony, and shall be fined not less than five hundred dollars nor more than ten thousand dollars, and imprisoned not less than one year nor more than five years.

As to empty imported spirit packages, see act of March 1, 1879, as amended, page 290.

It is of no consequence under this section what the intent of the person failing to obliterate stamp is. There is no discretion given to the court whether to fine or imprison for the offense. The offender must be fined and also imprisoned. (*United States v. Quantity of Distilled Spirits*, 3 Ben., 552; 11 Int. Rev. Rec., 3.)

Principal liable for failure of employee to obliterate stamps. (*United States v. Adler & Furst*, 21 Int. Rev. Rec., 316.)

The emptying of a cask without destroying stamp by the wife of a retail liquor dealer, who acts for her husband, renders the latter liable to the penalty.

It is well settled that where a master, owing a certain duty to the public, intrusts its performance to a servant, he is responsible criminally for failure of servant to discharge the duty, if nonperformance of the duty is a crime. (*United States v. Buchanan* (1881), 4 Hughes, 487; 9 Fed., 689; 28 Int. Rev. Rec., 21.)

Indictment for removing stamps from casks containing distilled spirits. (*United States v. Bayaud*, 16 Fed., 376; 21 Blatch., 287.)

Verdict set aside. (*United States v. Rogers*, western district of Kentucky, 164 Fed., 520.)

An indictment for failing to efface and cancel marks and brands at the time of emptying the package, need not aver a criminal intent. (*United States v. Ulrich*, 3 Dill., 533; Fed. Cas. No. 16594; *United States v. Gallant*, 177 Fed., 281.)

The carrier is bound to know whether or not there were stamps upon the barrels not effaced or obliterated. (*United States v. Goodrich Transp. Co.*, Fed. Cas. 15228; 8 Biss., 224.)

Section 3324 does not apply to stamps on cases which had contained spirits bottled-in-bond. (T. D. 1252.)

Circular letter to revenue officers relative to the requirements of this section. (T. D. 1648.)

Definition of felony. (Sec. 335, Criminal Code, act of March 4, 1909, p. 642.)

The provisions of section 3324, relative to the obliteration of stamps on empty distilled spirits casks and packages, including those imposing penalties, have been held to apply to empty wine packages. Therefore, unless stamps on empty wine packages are effaced and obliterated, the penalties provided by this section will be asserted. (T. D. 2765.)

Buying or selling spirit casks having inspection marks.
Penalty.

SEC. 3325. Whenever any person knowingly purchases or sells, with inspection-marks thereon, any cask or package, after the same has been used for distilled spirits, he shall forfeit and pay the sum of two hundred dollars for every such cask so purchased or sold.

Changing or altering marks or brands. Shifting spirits, etc.

SEC. 3326. Whenever any person changes or alters any stamp, mark, or brand on any cask or package containing distilled spirits, or puts into any cask or package spirits of greater strength than is indicated by the inspection-mark thereon, or fraudulently uses any cask or package having any inspection-mark or stamp thereon, for the purpose of selling other spirits, or spirits of quantity or quality different from the spirits previously inspected therein, he shall forfeit and pay the sum of two hundred

Penalty.

dollars for every cask or package on which the stamp or mark is so changed or altered, or which is so fraudulently used, and shall be fined for each such offense not less than one hundred dollars nor more than one thousand dollars, and imprisoned not less than one month nor more than one year.

United States v. Bardenheier, 49 Fed., 846.

SEC. 3327. No person shall remove any distilled spirits at any other time than after sun-rising and before sun-setting in any cask or package containing more than ten gallons from any premises or building in which the same may have been distilled, redistilled, rectified, compounded, manufactured, or stored; and every person who violates this provision shall be liable to a penalty of one hundred dollars for each cask, barrel, or package of spirits so removed; and said spirits, together with any vessel containing the same, and any horse, cart, boat, or other conveyance used in the removal thereof, shall be forfeited to the United States.

Removal of spirits from distillery or rectifier's premises before sunrise and after sunset.

Penalty.

Forfeiture.

SEC. 3328. (*Obsolete.*)

SEC. 3329. [*Amended by sec. 10, act of May 28, 1880 (21 Stat., 145).*] Distilled spirits upon which all taxes have been paid may be exported, with the privilege of drawback, * * * and in distillers' original casks or packages, containing not less than twenty wine-gallons each, on application of the owner thereof to the collector of customs at any port of entry, and under such rules and regulations, and after making such entry as may be prescribed by law and by the Secretary of the Treasury. The entry for such exportation shall be in triplicate, and shall contain the name of the person applying to export, the name of the distiller, the name of the district in which the spirits were distilled, the name of the vessel by which, and the name of the port to which, they are to be exported; and the form of the entry shall be as follows:

Drawback on distilled spirits.

Exportation of distilled spirits upon which tax has been paid.

EXPORT ENTRY OF DISTILLED SPIRITS ENTITLED TO DRAWBACK.

Entry of spirits distilled by _____, in _____ district, State of _____, to be exported by _____, in the _____, whereof _____ is master, bound to _____.

And the entry shall specify the whole number of casks or packages, the marks and serial numbers thereon, the quality or kind of spirits as known in commerce, the number of gauge or wine gallons and of proof-gallons; and the amount of the tax on such spirits shall be verified by the oath of the owner of the spirits, and that the tax has been paid thereon, and that they are truly intended to be exported to the port of _____, and not to be relanded within the limits of the United States. One bill of lading, duly signed by the master of the vessel, shall be deposited with said collector, to be filed at his office with the entry retained by him. One of said

entries shall be, when the shipment is completed, transmitted to the Secretary of the Treasury, to be recorded and filed in his office. The lading on board said vessel shall be only after the receipt of an order or permit signed by the collector of customs and directed to a customs gauger, and after each cask or package shall have been distinctly marked or branded by said gauger as follows: "For export from U. S. A.," and the tax-paid stamps thereon obliterated. The casks or packages shall be inspected and gauged alongside of or on the vessel by the gauger designated by said collector, under such rules and regulations as the Secretary of the Treasury may prescribe; and on application of the said collector it shall be the duty of the surveyor of the port to designate and direct one of the custom-house inspectors to superintend such shipment. And the gauger aforesaid shall make a full return of such inspection and gauging in such form as may be prescribed by the Secretary of the Treasury, showing by whom each cask of such spirits was distilled, the serial number of the cask, and of the tax-paid stamp attached thereto, the proof and quantity of such spirits as per the original gauge-mark on each cask, and the quantity in proof and wine gallons as per the gauge then made by him. And said gauger shall certify on such return that the shipment has been made, in his presence, on board the vessel named in the entry for export, which return shall be indorsed by said custom-house inspector certifying that the casks or packages have been shipped under his supervision on board said vessel, and the tax-paid stamps obliterated; and the said inspector shall make a similar certificate to the surveyor of the port, indorsed on or to be attached to the entry in possession of the custom-house.

Drawback.

A drawback shall be allowed upon distilled spirits on which the tax has been paid and exported to foreign countries, under the provisions of this act, when exported as herein provided for. The drawback allowed shall include the taxes levied and paid upon the distilled spirits exported, at the rate of ninety cents per proof-gallon, as per last gauge of said spirits prior to exportation, and shall be due and payable only after the proper entries have been made and filed, and all other conditions complied with as hereinbefore required, and on filing with the Secretary of the Treasury the proper claim, accompanied by the certificate of the collector of customs at the port of entry where the spirits are entered for export, that such spirits have been received into his custody and the tax-paid stamps thereon obliterated; and the Secretary of the Treasury shall prescribe such rules and regulations in relation thereto as may be necessary to secure the Treasury of the United States against frauds: *Provided, That the drawback on spirits distilled prior to August one, eighteen*

hundred and seventy-two, shall not exceed sixty cents per proof-gallon.

For penalty imposed for fraudulently claiming drawback see section 3330, Revised Statutes.

One of the changes in section 3329 made by section 10, act of May 28, 1880, was in these words: "That section thirty-three hundred and twenty-nine of the Revised Statutes of the United States be amended by striking out after the word 'exported,' in the fifty-sixth line, the words 'at the rate of seventy cents per proof-gallon,' and inserting in lieu thereof the word 'ninety.'" It was intended by this amendment, as construed by this office, simply to strike out "seventy" and insert "ninety," and is printed as intended.

In the absence of any provision of law for the allowance of drawback of tax at the rate imposed by section 48, act of August 28, 1894, no greater allowance than here authorized can be made. The allowance of drawback is limited to 90 cents per gallon, owing to the failure of Congress to amend this section when the rate of tax was increased to \$1.10 per gallon. (See T. D. 2572.)

Drawback to be computed on proof-gallons in all cases, notwithstanding the fact that tax is levied and paid on the wine-gallon when below proof. (Decision of Secretary of the Treasury May 19, 1884, case of Lillenthal & Co., 30 Int Rev. Rec., 157.)

Removal of spirits from distiller's original casks or packages to other packages prior to exportation, even if under supervision of customs officers, vitiates claim for drawback. (Decision of Secretary of the Treasury June 14, 1883, case of Hayes & Poppele. See also like decision (T. D. 5859) as to export spirits returned to United States to be recasked for reexportation; 29 Int. Rev. Rec., 308.)

As the statute provides only for the exportation of spirits by vessel (see sec. 3, R. S.) no allowance of drawback can be made on spirits exported by cars or other vehicles used as a means of transportation on land. (Decision of Secretary of the Treasury Apr. 18, 1885, case of Lillenthal & Co.)

Date of exportation to be determined by date of sailing of exporting vessel. (Thompson v. Peaslee, 20 How., 57.)

Regulation in regard to drawback of tax on distilled spirits. (Regulations, No. 29, revised.)

Drawback. (Thompson v. United States, 142 U. S., 471.)

Filing of collateral evidence of exportation of articles. (T. Ds. 1747, 1880.)

SEC. 3330. [*Amended by sec. 2, act of June 9, 1874 (18 Stat., 64), and sec. 11, act of May 28, 1880 (21 Stat., 145).*] Distilled spirits may be withdrawn from distillery bonded warehouses, at the instance of the owner of the spirits for exportation in the original casks, or packages, without the payment of tax, under such regulations, and after making such entries and executing and filing with the collector of the district from which the removal is to be made such bonds and bills of lading, and giving such other additional security as may be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury: *Provided*, That bonds given under this section shall be canceled under such regulations as the Secretary of the Treasury shall prescribe: *And provided further*, That the bonds required to be given for the exportation of distilled spirits shall be canceled upon the presentation of satisfactory

Exportation of distilled spirits withdrawn from bonded warehouses.

proof and certificates that said distilled spirits have been landed at the port of destination named in the bill of lading, or upon satisfactory proof that after shipment the same were lost at sea without fault or neglect of the owner or shipper thereof.

Export stamp,
10 cents instead
of 25. (Sec. 2,
act June 9,
1874.)

All distilled spirits intended for export, as aforesaid, before being removed from the distillery warehouse, shall be marked as the Commissioner of Internal Revenue may prescribe, and shall have affixed to each cask an engraved stamp indicative of such intention, to be provided and furnished by the several collectors as in the case of other stamps, and to be charged to them and accounted for in the same manner, and for the expense attending the providing and affixing such stamps ten cents for each package so stamped shall be paid to the collector on making the entry for such transportation. When the owner of the spirits shall have made the proper entries, filed the bonds, and otherwise complied with all the requirements of the law and regulations as herein provided, the collector shall issue to him a permit for the removal and transportation of said spirits to the collector of the port from which the same are to be exported, accurately describing the spirits to be shipped, the amount of tax thereon, the State and district from which the same is to be shipped, the name of the distiller by whom distilled, the port to which the same are to be transported, the name of the collector of the port to whom the spirits are to be consigned, and the routes over which they are to be sent to the port of shipment. Such shipment shall be made over bonded routes whenever practicable. The collector of the port shall receive such spirits, and permit the exportation thereof, under the same rules and regulations as are prescribed for the exportation of spirits upon which the tax has been paid.

Fraudulent
claims for draw-
back.

Penalty.

And every person who fraudulently claims, or seeks, or obtains an allowance of drawback on any distilled spirits, of fraudulently claims any greater allowance or drawback than the tax actually paid thereon, shall forfeit and pay to the Government of the United States triple the amount wrongfully and fraudulently sought to be obtained, and shall be imprisoned not more than ten years; and every owner, agent, or master of any vessel or other person who knowingly aids or abets in the fraudulent collection or fraudulent attempts to collect any drawback upon, or knowingly aids or permits any fraudulent change in the spirits so shipped, shall be fined not exceeding five thousand dollars and imprisoned not more than one year, and the ship or vessel on board of which such shipment was made or pretended to be made shall be forfeited to the United States, whether a conviction of the master or owner be had or otherwise, and proceedings may be had in admiralty by libel for such forfeiture.

Relanding spir-
its shipped for
exportation.

Every person who intentionally relands within the jurisdiction of the United States any distilled spirits

which have been shipped for exportation under the provisions of this act, or who receives such relanded distilled spirits, and every person who aids or abets in such re-landing or receiving of such spirits, shall be fined not exceeding five thousand dollars and imprisoned not more than three years; and all distilled spirits so relanded, together with the vessel from which the same were relanded within the jurisdiction of the United States, and all boats, vehicles, horses, or other animals used in re-landing and removing such distilled spirits, shall be forfeited to the United States.

Penalty.

See notes under section 3829.

Fraudulent claims for drawback. (Sec. 3443, p. 588.)

The amendment by the act of June 9, 1874, reduced the expense of export stamp from 25 to 10 cents.

Blanket bond allowed. (T. D. 1818.)

Bonds covering spirits withdrawn for exportation to be in penal sum of not less than 125 per cent of tax on spirits so withdrawn. (T. D. 2315.)

Instructions relative to removal of spirits and giving bonds within 30 days from date of regauge for exportation. (T. D. 21472.)

Regulations No. 29. Concerning the transportation and exportation of distilled spirits in bond without payment of tax.

See on this section *Clay v. Swope*, 35 Int. Rev. Rec., 130.

As to wooden packages containing metallic cans, see section 3287, as amended, p. 234.

Exportation and reimportation of distilled spirits. (T. D. 1458 (incorporated in Regulations No. 29, revised), Cir. No. 5, Int. Rev. No. 733.)

The execution of the export bond frees the spirits for the time being from obligation to pay the tax, and from the operation of the warehousing bond. (18 Op. Atty. Gen., 92.)

Shipment for export in sealed cars. (T. D. 2473.)

Cancellation of export bonds for distilled spirits. (T. D. 1828.)

Alcohol exported with intention to reimport. (21 Op. Atty. Gen., 502.)

Metal packages for containing spirits for export not required to have wooden surfaces for receiving marks, brands, and stamps, where certain conditions are complied with. (T. D. 2822.)

SEC. 1. [Act of June 9, 1874 (18 Stat., 64), as amended by sec. 10, act of March 1, 1879 (20 Stat., 327).] That whenever the owner or owners of distilled spirits shall desire to withdraw the same from any distillery bonded warehouse for exportation under existing law, such owner or owners may at their option, in lieu of executing an export bond as now provided by law, give a transportation bond with sureties satisfactory to the collector of internal revenue, and under such rules and regulations as the Secretary of the Treasury may prescribe, conditioned for the due delivery thereof on board ship at a port of exportation to be named therein, and for the due performance on the part of the exporter or owner at the port of export of all the requirements in regard to notice of export, entry, and the giving of bond hereinafter speci-

On withdrawal of spirits for exportation transportation bond may be taken.

Notice to collector of port.

Export entry.

Export bond.

Clearance certificate and gauger's report.

Cancellation of transportation bond.

Cancellation of export bond.

Change of package.

fied; and in such case, on arrival of the spirits at the port of export, the exporter or owner at that port shall immediately notify the collector of the port of the fact, setting forth his intention to export the same, and the name of the vessel upon which the same are to be laden, and the port to which they are intended to be exported. He shall, after the quantity of spirits has been determined by the gauger and inspector, file with the collector of the port an export-entry verified by his oath or affirmation. He shall also give bond to the United States, with at least two sureties, satisfactory to the collector of customs, conditioned that the principal named in said bond will export the spirits as specified in said entry to the port designated in said entry, or to some other port without the jurisdiction of the United States.

And upon the lading of such spirits, the collector of the port, after proper bonds for the exportation of the same have been completed by the exporter or owner at the port of shipment thereof, shall transmit to the collector of internal revenue of the district from which the said spirits were withdrawn for exportation, a clearance certificate and a detailed report of the gauger, which report shall show the capacity of each cask in wine-gallons, and the contents thereof in wine-gallons, proof-gallons, and taxable gallons. Upon receipt of the certificate and report, and upon payment of tax on deficiency, if any, the collector of internal revenue shall cancel the transportation bond. The bond required to be given for the landing at a foreign port of distilled spirits shall be canceled upon the presentation of satisfactory proof and certificates that said distilled spirits have been landed at the port of destination named in the bill of lading or any other port without the jurisdiction of the United States or upon satisfactory proof that after shipment the same were lost at sea without fault or neglect of the owner or shipper thereof; and whenever a distiller of spirits in bond shall desire to change the packages in which the same is contained, in order to export them, the Commissioner of Internal Revenue shall be authorized, under regulations to be prescribed by him, and upon the execution of proper bonds with sufficient sureties, to permit the withdrawal of so much spirits from bond and in new packages as the distiller shall desire to export as aforesaid.

The withdrawal of spirits from a bonded warehouse for consumption on a foreign war vessel is not an exportation. (23 Op. Atty. Gen., 420.)

But see paragraph K of tariff act of October 3, 1913, providing for tax-free withdrawal of articles for foreign vessels of war.

Tax on deficiency in transportation on the quantity of spirits withdrawn from distillery warehouse for export may be collected by distraint as well as by suit upon the transportation bond. (16 Op. Atty. Gen., 634; 25 Int. Rev. Rec., 342.)

The shipment of domestic spirits to a foreign country and their subsequent return to the United States do not

constitute an exportation and reimportation within the contemplation of law, where the spirits were shipped abroad with the intention of being returned to this country. (17 Op. Atty. Gen., 579; 29 Int. Rev. Rec., 225; 27 Op. Atty. Gen., 113.)

Spirits so shipped are liable to forfeiture under the provisions of section 3299, Revised Statutes, and every person making such shipment is also liable to the penalties imposed by section 3296, Revised Statutes. (Cir. No. 733; T. D. 1458.)

Extending bonding period in case of spirits to be exported. (18 Op. Atty. Gen., 92; 30 Int. Rev. Rec., 405.)

Condition of export bond being broken through failure to withdraw spirits from distillery warehouse, tax should be assessed, bond may be sued, or tax may be collected by distraint. (18 Op. Atty. Gen., 246 (Garland); 31 Int. Rev. Rec., 246.)

Railroad companies and stockholders in incorporated distilling companies, as sureties on transportation bonds. (29 Int. Rev. Rec., 177, 185.)

Tax on loss in distillery warehouse after filing export bond and before actual withdrawal. (United States v. Thompson, 32 Int. Rev. Rec., 166; 142 U. S., 471.)

Suit to restrain the collector from refusing to accept export bonds. (Miles v. Johnson, 40 Int. Rev. Rec., 10.)

Distilled spirits withdrawn from bond can not be reimposed on payment of original tax. (Flagler v. Kidd, 78 Fed., 341, reversing 54 Fed., 367.)

SEC. 1. [*Act of December 20, 1879 (21 Stat., 59).*]

That where spirits are withdrawn from distillery warehouses for exportation according to law, it shall be lawful, under such rules and regulations and limitations as shall be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, for an allowance to be made for leakage or loss by any unavoidable accident, and without any fraud or negligence of the distiller, owner, exporter, carrier, or their agents or employees, occurring during transportation from a distillery warehouse to the port of export; nor shall any assessment be collected for such loss or leakage where the same has not been paid on distilled spirits exported since the first day of May, eighteen hundred and seventy-eight.

Allowance for leakage or loss during transportation.

SEC. 2. [*Act of December 20, 1879 (21 Stat. 59).*]

That where the spirits provided for in the preceding section are covered by a valid claim of insurance in excess of the market value thereof, exclusive of the tax, the tax upon such spirits shall not be remitted to the extent of such excessive insurance.

When spirits are insured.

See sections 3221 and 3223, Revised statutes, as to spirits accidentally destroyed in warehouse.

Section 15, act of May 28, 1880, page 336, as to losses during transfers from distillery warehouses to manufacturing warehouses.

Where packages of distilled spirits are purchased by the United States while in bonded warehouse and ordered withdrawn "free of tax," the distiller can not be charged with tax on alleged excess of shrinkage therein. (United States v. Mullins, 119 Fed., 334.)

In any assessment growing out of the regauge or claim for loss an appeal lies to the Commissioner of Internal

Revenue, whose decisions are final. (*Corning v. United States*, 34 Ct. Cls., 272.)

Articles shipped to the Philippine Islands. (Sec. 6, act of March 8, 1902, p. 622.)

Articles shipped to the Canal Zone. (25 Op. Atty. Gen., 324.)

Regulations relative to the exportation of distilled spirits free of tax or with benefit of drawback. (No. 29, revised.)

Losses due to defective cooperage, improper storage, or handling are not allowable. (T. D. 2335.)

Loss not exceeding one proof gallon from any one package in transit for export allowable without claim being filed. (T. Ds. 2335, 2350.)

Where loss of distilled spirits shipped in sealed cars does not exceed four wine gallons as to any one package and average loss does not exceed two wine gallons per package as to all packages gauged, claims for remission not required. T. Ds. 2350, 2461.)

Transfer of
distilled spirits
to tank cars for
export.

SEC. 624. [*Act of February 24, 1919 (40 Stat., 1057).*]

That under such regulations as the Commissioner, with the approval of the Secretary, may prescribe, alcohol or other distilled spirits of a proof strength of not less than one hundred and eighty degrees intended for export free of tax may be drawn from receiving cisterns at any distillery, or from storage tanks in any distillery warehouse, for transfer to tanks or tank cars for export from the United States, and all provisions of existing law relating to the exportation of distilled spirits not inconsistent herewith shall apply to spirits removed for export under the provisions of this Act.

Bottling gin
in bond for ex-
port.

SEC. 626. [*Act of February 24, 1919 (40 Stat., 1057).*]

That distilled spirits known commercially as gin of not less than 80 per centum proof may at any time within eight years after entry in bond at any distillery be bottled in bond at such distillery for export without the payment of tax, under such rules and regulations as the Commissioner, with the approval of the Secretary, may prescribe.

Release of dis-
tillery before
judgment, in
what cases.

SEC. 3331. No distillery nor distilling-apparatus seized for any violation of law shall be released to the claimant or to any intervening party before judgment, except in case of a distillery for which bond has been given and which has a registered producing capacity of one hundred and fifty proof gallons or more per day, on showing, by sufficient affidavits, that there are hogs or other live stock, not less than 50 head in number, depending for their feed on the products of said distillery, which would suffer injury if the business of such distillery is stopped. Such distillery, in that case, may be released to the claimant, or to any other intervening party, at the discretion of the court, on a bond to be given and approved in open court, with two or more sureties, for the full appraised value of all the property seized, to be ascertained by three competent appraisers designated and appointed by the court.

Whisky seized for forfeiture and released on bond. (*United States v. 18 Barrels High Wines*, 25 Fed. Cas. (No. 15033), 985; 8 Blatch., 475.)

Distilling apparatus seized for forfeiture, and application made for its release on bond. (*United States v. 2 Tons of Coal*, 23 Fed. Cas., 329; 5 Blatch., 386; *United States v. Distillery, etc., of J. C. McCoy*, 25 Fed. Cas., 864; 21 Int. Rev. Rec., 165.)

Nature of bond. *United States v. Bergenthal*, 23 Fed., 444.)

SEC. 3332. [*Amended by sec. 5, act of March 1, 1879* (20 Stat., 327).] When a judgment of forfeiture, in any case of seizure, is recovered against any distillery used or fit for use in the production of distilled spirits, because no bond has been given, or against any distillery used or fit for use in the production of spirits, having a registered producing capacity of less than one hundred and fifty gallons a day, for any violation of law, of whatever nature, every still, doubler, worm, worm-tub, mash-tub, and fermenting-tub therein shall be so destroyed as to prevent the use of the same or of any part thereof for the purpose of distilling; and the materials shall be sold as in case of other forfeited property.

Still, etc., to be destroyed in certain cases.

And in case of seizure of a still, doubler, worm, worm-tub, mash-tub, fermenting-tub, or other distilling-apparatus, having a less producing capacity than one hundred and fifty gallons per day, for any offense involving forfeiture of the same, where said apparatus shall be of less than five hundred dollars' value, and where it shall be impracticable to remove the same to a place of safe storage from the place where seized, the seizing officer is authorized to destroy the same only so far as to prevent the use thereof, or any part thereof, for the purpose of distilling: *Provided*, That such destruction shall be in the presence of at least one credible witness, and that such witness shall unite with the said officer in a duly sworn report of said seizure and destruction, to be made to the Commissioner of Internal Revenue, in which report they shall set forth the grounds of the claim of forfeiture, the reasons for such seizure and destruction, their estimate of the fair cash value of the apparatus destroyed, and also of the materials remaining after such destruction, and a statement that, from facts within their own knowledge, they have no doubt whatever that said distilling apparatus was set up for use and not registered, or had been used in the unlawful distillation of spirits, and that it was impracticable to remove the same to a place of safe storage.

Within one year after such destruction the owner of the apparatus so destroyed may make application to the Secretary of the Treasury through the Commissioner of Internal Revenue, for reimbursement of the value of the same; and unless it shall be made to appear to the satisfaction of the Secretary and the Commissioner that said apparatus had been used in the unlawful distillation of spirits, the Secretary shall make an allowance to said owner, not exceeding the value of said apparatus, less the

Owner may be reimbursed in certain cases on application within one year.

Wrongful seizures; officer liable.

value of said materials as estimated in said report; and if the claimant shall thereupon satisfy said Secretary and Commissioner that said unlawful use of the apparatus had been without his consent or knowledge, he shall still be entitled to such compensation, but not otherwise. And in case of a wrongful seizure and destruction of property under the foregoing provisions, the owner thereof shall have right of action on the official bond of the officer who occasioned the destruction for all damages caused thereby.

The words "judgment of forfeiture" include cases of forfeiture under section 3460. (33 Int. Rev. Rec., 397.)

Indictment for wanton and willful injury to personal property. (*State of North Carolina v. Thos. H. Vanderford*, 34 Int. Rev. Rec., 190.)

Burden of proof on claimant.

SEC. 3333. Whenever seizure is made of any distilled spirits found elsewhere than in a distillery or distillery warehouse, or other warehouse for distilled spirits authorized by law, or than in the store or place of business of a rectifier, or of a wholesale liquor-dealer, or than in transit from any one of said places; or of any distilled spirits found in any one of the places aforesaid, or in transit therefrom, which have not been received into or sent out therefrom in conformity to law, or in regard to which any of the entries required by law to be made in the books of the owner of such spirits, or of the store-keeper, wholesale dealer, or rectifier, have not been made at the time or in the manner required, or in respect to which the owner or person having possession, control, or charge of said spirits, has omitted to do any act required to be done, or has done or committed any act prohibited in regard to said spirits, the burden of proof shall be upon the claimant of said spirits to show that no fraud has been committed, and that all the requirements of the law in relation to the payment of the tax have been complied with.

Where evidence is introduced tending to show that true entries and returns relative to the spirits have not been made, the burden is thrown upon the claimant to prove regularity. (*United States v. 18 Bbls. of High Wines*, 8 Blatch., 475; *Fed. Cas. No. 15083*. 199 Bbls. of Whiskey *v. United States*, 94 U. S., 86. *United States v. 8 Casks of Whisky*, 7 Int. Rev. Rec., 4; *Fed. Cas. No. 15080*. *United States v. 508 Bbls. of Spirits*, 5 Blatch., 407, *Fed. Cas. No. 15113*. *United States v. Six Barrels Distilled Spirits*, 6 Int. Rev. Rec., 187; *Fed. Cas. No. 15114*. *United States v. Sykes*, 58 Fed., 1000. *Twenty-Six Barrels and Seventeen Tierces of Distilled Spirits*, *Fed. Cas. No. 14283*.)

This provision requiring affirmative proof by claimant is not unconstitutional. (*United States v. 78 Bbls.*, 7 Int. Rev. Rec., 4; *Fed. Cas. No. 16257*.)

Spirits sold under judicial process subject to tax.

SEC. 3334. [*Amended by sec. 5, act March 1, 1879 (20 Stat., 327).*] All distilled spirits forfeited to the United States, sold by order of court, or under process of distraint, shall be sold subject to tax; and the purchaser shall immediately, and before he takes possession of said spirits, pay the tax thereon. And any distilled spirits

heretofore condemned, and now in the possession of the United States, shall be sold as herein provided. If any tax-paid stamps are affixed to any cask or package so condemned, such stamps shall be obliterated and destroyed by the collector or marshal after forfeiture, and before such sale.

Provided: That in all cases wherein it shall appear that any distilled spirits offered for sale on distraint for taxes, where the taxes on such spirits have not been paid, or offered for sale for the benefit of the United States as forfeited spirits under order of court or under proceeding pursuant to section thirty-four hundred and sixty of the Revised Statutes, will not sell for price equal to tax, will not, by reason of such spirits being below proof, being [bring] a price equal to the taxes due and payable thereon, but will bring a price equal to, or greater than, the tax on said spirits, computed only upon the proof-gallons contained in the packages, without regard to the greater number of wine-gallons contained therein, then, and in such case, upon sale being so made, tax-paid stamps to the amount required to stamp such spirits as if the tax thereon were only on the proof-gallons thereof, may, under such rules and regulations as the Commissioner of Internal Revenue shall prescribe, be used by the collector making such sale, or furnished by a collector to a United States marshal, or to any other government officer making such sale for the benefit of the United States, without making payment for said stamps so used or delivered. Any collector using or furnishing stamps in manner aforesaid, on presenting vouchers satisfactory to the Commissioner of Internal Revenue, shall be allowed credit for the same in settling his stamp account with the department. In such cases, the officer selling the distilled spirits shall affix, or cause to be affixed, to the same the tax-paid stamps so provided, and shall write across the face of such stamps the true number of proof and wine gallons contained in the package, the amount of tax actually paid thereon, and also the words "Affixed under provisions of act of ———, 1879" (inserting the date of the approval of this act).

In case spirits which have once paid the tax are seized and sold under process of distraint for the collection of an assessed tax they are not required to be sold subject to tax.

As to destruction of spirits which will not sell for a price equal to tax on the proof gallons see last provision of section 3450, p. 592.

IMPORTED LIQUOR STAMPS, ETC.

SEC. 11. [*Act of March 1, 1879 (20 Stat., 327).*] That, Packages of all distilled spirits, wines, and malt liquors, imported in pipes, hogsheads, tierces, barrels, casks, or other similar packages, shall be first placed in public store or bonded warehouse, and shall not be removed therefrom until the same shall have been inspected, marked, and branded by a United States customs-gauger, and a stamp affixed to

each package, indicating the date and particulars of such inspection; and the Secretary of the Treasury is hereby authorized to prescribe the form of, and provide, the requisite stamps, and to make all regulations which he may deem necessary and proper for carrying the foregoing requirements into effect.

Forfeiture.

Special stamp when packages of imported spirits are filled on the premises of a wholesale liquor dealer.

Any pipe, hogshead, tierce, barrel, cask, or other package withdrawn from public store or bonded warehouse after the thirtieth day of June, eighteen hundred and seventy-nine, purporting to contain imported liquor, found without having thereon the stamp hereby required, shall be, with its contents, forfeited to the United States; and whenever any cask or package of imported distilled spirits of not less than five wine-gallons is filled for shipment, sale, or delivery on the premises of any wholesale liquor-dealer, the same shall be stamped with a special stamp for imported spirits, under such rules and regulations as the Commissioner of Internal Revenue has prescribed, or may hereafter prescribe, in the case of domestic distilled spirits.

Stamps for reimported domestic spirits. (27 Int. Rev. Rec., 333.)

As to imported liquors. (See tariff act of October 3, 1913; par. F, Sec. IV.)

The importation of distilled spirits prohibited after September 9, 1917. (T. D. 37315.)

When packages of imported liquors are emptied, stamps to be effaced.

SEC. 12. [*Act of March 1, 1879 (20 Stat., 327), as amended by sec. 12, act of May 28, 1880 (21 Stat., 145).*] That every person who empties or draws off, or causes to be emptied or drawn off, the contents of any package of imported liquors stamped as above required, shall, at the time of such emptying, efface, obliterate, and destroy the stamp thereon, and also all other marks or brands which shall have been placed thereon in accordance with the law or regulations concerning imported liquors. * * *

Penalty for not effacing stamps.

Sec. 3324.

Every cask or other package from which the stamp for imported liquors required by this act to be placed thereon shall not be effaced, obliterated, or destroyed, on emptying such package, shall be forfeited, and the same may be seized by any officer of internal revenue wherever found; and all the provisions and penalties of section thirty-three hundred and twenty-four of the Revised Statutes of the United States, relating to empty casks or packages from which the marks, brands, or stamps have not been effaced or obliterated, and relating to the removal of stamps from packages, and to having in possession any stamps so removed, shall apply to the stamps for imported spirits herein provided for, and to the casks or other packages on which such stamps shall have been used.

United States v. Morris Spiegel, 116 U. S., 270; 32 Int. Rev. Rec., 54.

SEC. 13. [*Act of March 1, 1879 (20 Stat. 327), as amended by sec. 13, act of May 28, 1880 (21 Stat., 145).*]

That if any person shall purchase or sell, with the imported-liquor stamp herein required remaining thereon, or any of the marks or brands which shall have been placed thereon in accordance with the laws or regulations concerning imported liquors remaining thereon, any cask or other package, after the same has been once used to contain imported liquors and has been emptied; or if any person shall use or have in possession such cask or package, with any imitation of such marks or brands, for the purpose of placing domestic distilled spirits therein for sale, * * * every such cask or package, with its contents, if any, shall be forfeited to the United States.

Penalty for dealing in or using empty casks with imported stamps, marks, etc., thereon.

And every such person who shall violate any of the provisions of this section shall be liable to a penalty of two hundred dollars for every such cask or package so purchased, sold, manufactured, used, or had in possession.

Penalty.

SEC. 1. [*Act of March 3, 1897 (29 Stat., 626).*] That whenever any distilled spirits deposited in the warehouse of a distillery having a surveyed daily capacity of not less than twenty bushels of grain, which capacity or not less than twenty bushels thereof is commonly used by the distiller, have been duly entered for withdrawal upon payment of tax, or for export in bond, and have been gauged and the required marks, brands, and tax-paid stamps or export stamps, as the case may be, have been affixed to the package or packages containing the same, the distiller or owner of said distilled spirits, if he has declared his purpose so to do in the entry for withdrawal, which entry for bottling purposes may be made by the owner as well as the distiller, may remove such spirits to a separate portion of said warehouse which shall be set apart and used exclusively for that purpose, and there, under the supervision of a United States storekeeper, or storekeeper and gauger, in charge of such warehouse, may immediately draw off such spirits, bottle, pack, and case the same: *Provided*, That for convenience in such process any number of packages of spirits of the same kind, differing only in proof, but produced at the same distillery by the same distiller, may be mingled together in a cistern provided for that purpose, but nothing herein shall authorize or permit any mingling of different products, or of the same products of different distilling seasons, or the addition or the subtraction of any substance or material or the application of any method or process to alter or change in any way the original condition or character of the product except as herein authorized; nor shall there be at the same time in the bottling room of any bonded warehouse any spirits entered for withdrawal upon payment of the tax and any spirits entered for export: *Provided also*, That under such regulations and limitations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe, the provisions of this Act may be made to apply to the

Bottling of distilled spirits in bond.

Spirits entered for bottling purposes in warehouse.

Regulations.

bottling and casing of fruit brandy in special bonded warehouses.

Stamp, how
affixed.

Every bottle when filled shall have affixed thereto and passing over the mouth of the same such suitable adhesive engraved strip stamp as may be prescribed, as hereinafter provided, and shall be packed into cases to contain six bottles or multiples thereof, and in the aggregate not less than two nor more than five gallons in each case, which shall be immediately removed from the distillery premises. Each of such cases shall have affixed thereto a stamp denoting the number of gallons therein contained, such stamp to be affixed to the case before its removal from the warehouse, and such stamps shall have a cash value of ten cents each, and shall be charged at that rate to the collectors to whom issued, and shall be paid for at that rate by the distiller or owner using the same.

Cases to have
stamp affixed.

Branding of
cases.

And there shall be plainly burned on the side of each case, to be known as the Government side, the proof of the spirits, the registered distillery number, the State and district in which the distillery is located, the real name of the actual bona fide distiller, the year and distilling season, whether spring or fall, of original inspection or entry into bond, and the date of bottling, and the same wording shall be placed upon the adhesive engraved strip stamp over the mouth of the bottle. It being understood that the spring season shall include the months from January to July, and the fall season the months from July to January.

Trade marks.

And no trade marks shall be put upon any bottle unless the real name of the actual bona fide distiller shall also be placed conspicuously on said bottle.

Combination cases of spirits bottled in bond. (T. D. 888.)

Case stamps for distilled spirits bottled for export. (Cir. No. 6; Int. Rev. Cir. No. 489; T. D. 18763.)

Stamps to be in custody of storekeeper gauger. (T. D. 2084.)

Spirits to be immediately bottled, cased, and removed. (T. D. 2480.)

Case stamps. (Cir. No. 55; Int. Rev., 492; T. D. 19155; Cir. No. 552; T. D. 32.)

What the Government stamp on bottled-in-bond goods guarantees as to purity or quality of the spirits. The Government assumes no responsibility with respect to claims of dealers in advertising spirits. (T. D. 1299.)

Using undersized bottles or underfilling bottles when bottling spirits in bond prohibited. Suspension of issue of stamps on account of persistent violation of requirements, and forfeiture of goods in certain cases. (Circular letter, Oct. 6, 1897; 43 Int. Rev. Rec., 374; T. D. 2498.)

Bottling of spirits in bond. No foreign materials to be added. (T. D. 1433.)

Bottling warehouses for use of different distilleries. (T. D. 581; Cir. No. 681; T. D. 555; Regulations, No. 23, revised, p. 14.)

Cases of spirits bottled in bond should be entered on Form 52. (T. D. 808; Regulations, No. 23, revised, p. 24.)

Testing bottles for containing bottled-in-bond spirits. (Cir. No. 681; T. D. 991 and T. D. 1063; Regulations, No. 23, revised, p. 13; T. D. 2488; T. D. 2498.)

Stamps and brands on cases of bottled-in-bond whisky should be kept intact. (T. D. 1076.) See sec. 3324.

Serial numbers may be stenciled. (T. D. 2419.)

Marks and brands may be imprinted or embossed. (T. D. 2492.)

Discontinuance of serial numbers on case and strip stamps. (T. D. 1573.)

Caution notice on spirits bottled in bond. (T. D. 1491.) Art. 32, Regulations, No. 23, p. 19.

Tax will be assessed and collected on gains in bottling in excess of one-half gallon per package. Art. 22, Regulations, No. 23, revised.

Bottled-in-bond whisky. Where proof is less than 99 per cent. (T. D. 943.)

Where proof is over 100.3 per cent. (T. D. 2432.)

Marks and brands imprinted or embossed on loose sheet to be attached to Government side of case permitted. (T. D. 2492.)

No longer necessary to fill out indorsement fold on requisitions for stamps. (T. D. 1756.)

SEC. 2. [*Act of March 3, 1897 (29 Stat., 626).*] That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may, by regulations, prescribe the mode of separating and securing the additional warehouse, or portion of the warehouse hereinbefore required to be set apart, the manner in which the business of bottling spirits in bond shall be carried on, the notices, bonds, and returns to be given and accounts and records to be kept by the persons conducting such business, the mode and time of inspection of such spirits, the accounts and records to be kept and returns made by the Government officers, and all such other matters and things, as in his discretion, he may deem requisite for a secure and orderly supervision of said business; and he may also, with the approval of the Secretary of the Treasury, prescribe and issue the stamps required.

Inspection of spirits.

The distiller may, in the presence of the United States storekeeper or storekeeper and gauger, remove by straining through cloth, felt, or other like material any charcoal, sediment or other like substance found therein, and may whenever necessary reduce such spirits as are withdrawn for bottling purposes by the addition of pure water only to one hundred per centum proof for spirits for domestic use, or to not less than eighty per centum proof for spirits for export purposes, under such rules and regulations as may be prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury; and no spirits shall be withdrawn for bottling under this Act until after the period shall have expired within which a distiller may request a regauge of distilled spirits as provided in section fifty of the Act of August twenty-eighth, eighteen hundred and ninety-four.

Spirits reduced by adding water.

No spirits to be withdrawn for bottling until the expiration of four years from the date of deposit in warehouse. (Art. 14, Regulations No. 23.)

A filtering apparatus, packed with cloth, felt, or other like material, such as cotton fiber or wood or paper pulp, may

be used for straining spirits to be bottled in bond. Permission to use such filters will be granted only upon the express condition that the packing material is one mentioned in the statute, or similar thereto, and that in no case shall charcoal, boneblack, etc., be used, as such materials might effect changes in the spirits other than the mechanical removal of matter in suspension. (T. D. 21106; Regulations No. 23, revised, p. 11.)

The distiller is responsible for the correctness of the proof. (T. D. 930; T. D. 936.)

Spirits for export.

SEC. 3. [*Act of March 3, 1897 (29 Stat., 626).*] That all distilled spirits intended for export under the provisions of this Act shall be inspected, bottled, cased, weighed, marked, labeled, stamped, or sealed in such manner and at such time as the Commissioner of Internal Revenue may prescribe; and the said Commissioner, with the approval of the Secretary of the Treasury, may provide such regulations for the transportation, entry, reinspection, and lading of such spirits for export as may from time to time be deemed necessary; and all provisions of existing law relating to the exportation of distilled spirits in bond, so far as applicable, and all penalties therein imposed, are hereby extended and made applicable to distilled spirits bottled for export under the provisions of this Act, but no drawback shall be allowed or paid upon any spirits bottled under this Act.

Existing laws made applicable.

No drawback.

Bottling gin for export. (See sec. 626, act of February 24, 1919, p. 286.)

Reimportation of distilled spirits bottled in bond below proof for export. (T. D. 1006.)

Bottled spirits for export. (Cir. 719; T. Ds. 1338, 1777.)

Marking cases for export. (T. D. 2486.)

In case of loss or deficiency.

SEC. 4. [*Act of March 3, 1897 (29 Stat., 626).*] That where, upon inspection at the bonded warehouse in which the spirits are bottled as aforesaid, the quantity so bottled and cased for export is less than the quantity actually contained in the distiller's original casks or packages at the time of withdrawal for that purpose the tax on the loss or deficiency so ascertained shall be paid before the removal of the spirits from such warehouse, and the tax so paid shall be receipted and accounted for by the collector in such manner as the Commissioner of Internal Revenue may prescribe.

Reinspection.

SEC. 5. [*Act of March 3, 1897 (29 Stat., 626).*] That where, upon reinspection at the port of entry, any case containing or purporting to contain distilled spirits for export is found to have been opened or tampered with, or where any mark, brand, stamp, label, or seal placed thereon or upon any bottle contained therein has been removed, changed, or willfully defaced, or where upon such reinspection any loss or discrepancy is found to exist as to the contents of any case so entered for export, the tax on the spirits contained in each such case at the time of its removal from warehouse shall be collected and paid.

Penalties.

SEC. 6. [*Act of March 3, 1897 (29 Stat., 626).*] That any person who shall reuse any stamp provided under this Act

after the same shall have been once affixed to a bottle as provided herein, or who shall reuse a bottle for the purpose of containing distilled spirits which has once been filled and stamped under the provisions of this Act without removing and destroying the stamp so previously affixed to such bottle, or who shall, contrary to the provisions of this Act or of the regulations issued thereunder remove or cause to be removed from any bonded warehouse any distilled spirits inspected or bottled under the provisions of this Act, or who shall bottle or case any such spirits in violation of this Act or of any regulation issued thereunder, or who shall, during the transportation and before the exportation of any such spirits, open or cause to be opened any case or bottle containing such spirits, or who shall willfully remove, change, or deface any stamp, brand, label, or seal affixed to any such case or to any bottle contained therein, shall for each such offense be fined not less than one hundred nor more than one thousand dollars, and be imprisoned not more than two years, in the discretion of the court, and such spirits shall be forfeited to the United States.

Refilling with spirits bottles previously used for bottling spirits in bond without destroying the stamps. (Cir. No. 647; T. D. 696.)

Refilling bottles. Guilty intent is not an element of the offense. The principal is criminally liable for the acts of his agent or employee. (United States v. Guthrie, 171 Fed., 528; T. D. 1520.)

Insufficient evidence. (Duff v. United States, 185 Fed., 101.)

SEC. 7. [*Act of March 3, 1897 (40 Stat., 626).*] That every person who, with intent to defraud, falsely makes, forges, alters, or counterfeits any stamp made or used under any provision of this Act, or who uses, sells, or has in his possession any such forged, altered, or counterfeited stamp, or any plate or die used or which may be used in the manufacture thereof, or who shall make, use, sell, or have in his possession any paper in imitation of the paper used in the manufacture of any stamp required by this Act, shall on conviction be punished by a fine not exceeding one thousand dollars and by imprisonment at hard labor not exceeding five years. Counterfeiting,
etc., stamps.

SEC. 8. [*Act of March 3, 1897 (29 Stat., 626).*] That nothing in this Act shall be construed to exempt spirits bottled under the provisions of this Act from the operation of chapter seven hundred and twenty-eight of the public laws of the Fifty-first Congress, approved August eighth, eighteen hundred and ninety. Act of Aug. 8,
1890.

Act of August 8, 1890 (26 Stat., 313) : That all fermented, distilled, or other intoxicating liquors or liquids transported into any State or Territory, or remaining therein for use, consumption, sale, or storage therein, shall upon arrival in such State or Territory be subject to the operation and effect of the laws of such State or Territory enacted in the exercise of its police powers, to the same extent and in the same manner as though such liquids or liquors had been produced

in such State or Territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise. (In re Rahrer, 140 U. S., 545; 37 Int. Rev. Rec. 230; Rhodes v. Iowa, 170 U. S. 412.)

Provisions of the Criminal Code (act of March 4, 1909) relative to interstate shipments of distilled spirits. (See Appendix, p. 681.)

Shipments into a State, etc., in violation of law thereof prohibited.

[*Act of March 1, 1913 (37 Stat., 699).*] The shipment or transportation, in any manner or by any means whatsoever, of any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind, from any State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, into any other State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, or from any foreign country into any State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, which said spirituous, vinous, malted, fermented, or other intoxicating liquor is intended, by any person interested therein, to be received, possessed, sold, or in any manner used, either in the original package or otherwise, in violation of any law of such State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, is hereby prohibited.

Act is constitutional. (United States v. Oregon-Washington Railroad & Navigation Company, 210 Fed., 378.)

This law does not apply to shipments of liquor from Tennessee to Kentucky for personal use. (Adams Express Co. v. Kentucky, 238 U. S., 190.)

This act is not out of harmony with applicability of section 3231 to prohibition States. (United States v. Lazzaro, 255 Fed., 237.)

Advertisements in certain States.

SEC. 5. [*Act of March 3, 1917 (39 Stat., 1069).*] No letter, postal card, circular, newspaper, pamphlet, or publication of any kind containing any advertisement of spirituous, vinous, malted, fermented, or other intoxicating liquors of any kind, or containing a solicitation of an order or orders for said liquors, or any of them, shall be deposited in or carried by the mails of the United States, or be delivered by any postmaster or letter carrier, when addressed or directed to any person, firm, corporation, or association, or other addressee, at any place or point in any State or Territory of the United States at which it is by the law in force in the State or Territory at that time unlawful to advertise or solicit orders for such liquors, or any of them respectively.

If the publisher of any newspaper or other publication or the agent of such publisher, or if any dealer in such liquors or his agent, shall knowingly deposit or cause to be deposited, or shall knowingly send or cause to be sent, anything to be conveyed or delivered by mail in violation of the provisions of this section, or shall knowingly deliver or cause to be delivered by mail anything herein forbidden to be carried by mail, shall be

fined not more than \$1,000 or imprisoned not more than six months, or both; and for any subsequent offense shall be imprisoned not more than one year. Any person violating any provision of this section may be tried and punished, either in the district in which the unlawful matter or publication was mailed or to which it was carried by mail for delivery, according to direction thereon, or in which it was caused to be delivered by mail to the person to whom it was addressed. Whoever shall order, purchase, or cause intoxicating liquors to be transported in interstate commerce, except for scientific, sacramental, medicinal, and mechanical purposes, into any State or Territory the laws of which State or Territory prohibit the manufacture or sale therein of intoxicating liquors for beverage purposes shall be punished, as aforesaid: *Provided*, That nothing herein shall authorize the shipment of liquor into any State contrary to the laws of such State: *Provided further*, That the Postmaster General is hereby authorized and directed to make public from time to time in suitable bulletins or public notices the names of States in which it is unlawful to advertise or solicit orders for such liquors.

Shipments into
State prohibit-
ing sale.

By act of March 4, 1917 (39 Stat., 1202), it was provided that the provisions of this section should not be in effect until July 1, 1917.

This act is not out of harmony with applicability of section 3281 to prohibition States. (*United States v. Lazzaro*, 255 Fed., 237.)

There may be a conspiracy to violate this section by transporting liquor into a prohibition State, indictable under Criminal Code, section 87. (*Laughter v. United States*, 250 Fed., 94.)

To render this section applicable to a State, it must have adopted a general policy of prohibition throughout its territory, but it is not essential that such prohibition should be literally without exception; both the sale and manufacture of liquor for sale as a beverage are prohibited under various statutes of Tennessee throughout the State, and transportation of liquor into State for beverage purposes is in violation of this section. (*Id.*)

Conviction of transporting liquor into a State, in violation of this section, reversed, trial having been under misconception that defendant could be convicted, though liquor was merely being carried through the State. (*Preyer v. United States*, 260 Fed., 157.)

One buying intoxicating liquor in one State and transporting it in his own automobile into a prohibition State for his own personal use, and not for sale, does not transport it in interstate commerce, within this section. (*United States v. Simpson*, 257 Fed., 860.)

SEC. 1110. [*Act of October 3, 1917 (40 Stat., 300).*] That section five of the Act approved March third, nineteen hundred and seventeen, entitled "An Act making appropriations for the Post Office Department for the year ending June thirtieth, nineteen hundred and eighteen," shall not be construed to apply to ethyl alcohol for governmental, scientific, medicinal, mechanical, manufacturing, and industrial purposes, and the Postmaster General shall prescribe suitable rules and regula-

Construction of
section 5, act of
March 3, 1917.

tions to carry into effect this section in connection with the Act of which it is amendatory, nor shall said section be held to prohibit the use of the mails by regularly ordained ministers of religion, or by officers of regularly established churches, for ordering wines for sacramental uses, or by manufacturers and dealers for quoting and billing such wines for such purposes only.

Extension of
act of March 3,
1917, as amend-
ed, to District
of Columbia.

SEC. 1407. [*Act of February 24, 1919 (40 Stat., 1057).*] That the provisions of section 5 of the Act entitled "An Act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1918, and for other purposes," approved March 3, 1917, relating to intoxicating liquors in interstate commerce, as amended by section 1110 of an Act entitled "An Act to provide revenue to defray war expenses, and for other purposes," approved October 3, 1917, be, and the same are hereby, made applicable to the District of Columbia.

DENATURED ALCOHOL.¹

[*Act of June 7, 1906 (34 Stat., 217).*]

AN ACT For the withdrawal from bond, tax free, of domestic alcohol when rendered unfit for beverage or liquid medicinal uses by mixture with suitable denaturing materials.

Domestic alco-
hol may be
withdrawn tax-
free for denatu-
ration.

SEC. 1. That from and after January first, nineteen hundred and seven, domestic alcohol of such degree of proof as may be prescribed by the Commissioner of Internal Revenue, and approved by the Secretary of the Treasury, may be withdrawn from bond without the payment of internal-revenue tax, for use in the arts and industries, and for fuel, light, and power, provided said alcohol shall have been mixed in the presence and under the direction of an authorized Government officer, after withdrawal from the distillery warehouse, with methyl alcohol or other denaturing material or materials, or admixture of the same, suitable to the use for which the alcohol is withdrawn, but which destroys its character as a beverage and renders it unfit for liquid medicinal purposes; such denaturing to be done upon the application of any registered distillery in denaturing bonded warehouses specially designated or set apart for denaturing purposes only, and under conditions prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury.

How and where
denatured.

Denaturing
material to be
prescribed by
Commissioner.

The character and quantity of the said denaturing material and the conditions upon which said alcohol may be withdrawn free of tax shall be prescribed by the Commissioner of Internal Revenue, who shall, with the approval of the Secretary of the Treasury, make all necessary regulations for carrying into effect the provisions of this Act.

Books and rec-
ords to be kept.
Bonds to be
given.

Distillers, manufacturers, dealers and all other persons furnishing, handling or using alcohol withdrawn from bond under the provisions of this Act shall keep such

¹ See Regulations No. 30.

books and records, execute such bonds and render such returns as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulation require. Such books and records shall be open at all times to the inspection of any internal-revenue officer or agent.

See notes on pages 301, 302.

Denatured alcohol brought from Porto Rico subject to tax. (T. D. 1450.) But undenatured alcohol brought from Porto Rico may be denatured in the United States free of tax. (T. Ds. 2575, 2641.)

SEC. 2. That any person who withdraws alcohol free of tax under the provisions of this Act and regulations made in pursuance thereof, and who removes or conceals same, or is concerned in removing, depositing or concealing same for the purpose of preventing the same from being denatured under governmental supervision, and any person who uses alcohol withdrawn from bond under the provisions of section one of this Act for manufacturing any beverage or liquid medicinal preparation, or knowingly sells any beverage or liquid medicinal preparation made in whole or in part from such alcohol, or knowingly violates any of the provisions of this Act, or who shall recover or attempt to recover by redistillation or by any other process or means, any alcohol rendered unfit for beverage or liquid medicinal purposes under the provisions of this Act, or who knowingly uses, sells, conceals, or otherwise disposes of alcohol so recovered or redistilled, shall on conviction of each offense be fined not more than five thousand dollars, or be imprisoned not more than five years, or both, and shall, in addition, forfeit to the United States all personal property used in connection with his business, together with the buildings and lots or parcels of ground constituting the premises on which said unlawful acts are performed or permitted to be performed: *Provided*, That manufacturers employing processes in which alcohol, used free of tax under the provisions of this Act, is expressed or evaporated from the articles manufactured, shall be permitted to recover such alcohol and to have such alcohol restored to a condition suitable solely for reuse in manufacturing processes under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury shall prescribe.

Penalty for improper withdrawal, use as a beverage, or for medicinal purpose.

May be recovered and redenatured.

For instructions as to applications, entries, bonds, etc., see Regulations No. 30, revised October 12, 1917.

SEC. 3. (*Obsolete.*)

This section provided an appropriation for payment of an additional force of chemists, internal-revenue agents, inspectors, deputy collectors, clerks, laborers, and other assistants, the force authorized to be appointed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, for a period of two years without compliance with the conditions prescribed by the civil-service act of January 16, 1883.

SEC. 4. (*Obsolete.*)

This section provided for a report to Congress at its next session of all appointments made under the provisions of this act and regulations prescribed and for a report of any additional legislation necessary to safeguard the revenue and secure a proper enforcement of the law.

[Amendment to the act of June 7, 1906.]

AN ACT TO amend an Act entitled "An Act for the withdrawal from bond tax free of domestic alcohol when rendered unfit for beverage or liquid medicinal uses by mixture with suitable denaturing materials," approved June 7, 1906. (Act of March 2, 1907; 34 Stat., 1250.)

Denatured alcohol may be used in manufacture of ether, chloroform, and definite chemical substances.

SEC. 1. That notwithstanding anything contained in the Act entitled "An Act for the withdrawal from bond tax free of domestic alcohol when rendered unfit for beverage or liquid medicinal uses by mixture with suitable denaturing material," approved June seventh, nineteen hundred and six, domestic alcohol when suitably denatured may be withdrawn from bond without the payment of internal-revenue tax and used in the manufacture of ether and chloroform and other definite chemical substances where said alcohol is changed into some other chemical substance and does not appear in the finished product as alcohol: *Provided*, That rum of not less than one hundred and fifty degrees proof may be withdrawn, for denaturation only, in accordance with the provisions of said Act of June seventh, nineteen hundred and six, and in accordance with the provisions of this Act.

Rum of not less than 150° proof may be withdrawn for denaturation.

Central denaturing bonded warehouses may be established.

SEC. 2. That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may authorize the establishment of central denaturing bonded warehouses, other than those at distilleries, to which alcohol of the required proof may be transferred from distilleries or distillery bonded warehouses without the payment of internal-revenue tax, and in which such alcohol may be stored and denatured. The establishment, operation, and custody of such warehouses shall be under such regulations and upon the execution of such bonds as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe.

Loss of alcohol while in transit from distillery bonded warehouse to central denaturing bonded warehouse. (T. D. 2348.)

Withdrawal by pipes direct from cisterns may be permitted, under prescribed regulations.

SEC. 3. That alcohol of the required proof may be drawn off, for denaturation only, from receiving cisterns in the cistern room of any distillery for transfer by pipes direct to any denaturing bonded warehouse on the distillery premises or to closed metal storage tanks situated in the distillery bonded warehouse, or from such storage tanks to any denaturing bonded warehouse on the distillery premises, and denatured alcohol may also be transported from the denaturing bonded warehouse, in such manner and by means of such packages, tanks or tank

cars, and on the execution of such bonds, and under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe. And further, alcohol to be denatured may be withdrawn without the payment of internal-revenue tax from the distillery bonded warehouse for shipment to central denaturing plants in such packages, tanks and tank cars, under such regulations, and on the execution of such bonds as may be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury: *Provided*, That where alcohol is withdrawn from a distillery warehouse for shipment to a central denaturing bonded warehouse under the provisions of this Act it shall be lawful under such rules, regulations, and limitations as shall be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, for an allowance to be made for leakage or loss by any accident, and without any fraud or negligence of the distiller, owner, carrier, or their agents or employees, occurring during transportation from a distillery warehouse to a central denaturing bonded warehouse.

Alcohol may be withdrawn from distillery warehouse for shipment to central denaturing bonded warehouse.

Allowance for leakage. (Act of June 22, 1916: 39 Stat., 222.)

Transferring alcohol from different distilleries under one bond. (T. D. 2630.)

Alcohol may be transferred directly from weighing tank to tank cars for shipment to central denaturing warehouses. (T. D. 2294.)

Keys to tank-car locks to be sent to point of destination and returned at Government expense. (T. D. 1844.)

SEC. 4. (*Repealed by section IV, Par. N, subsection 2, act of October 3, 1913.*)

SEC. 5. That the provisions of this Act shall take effect on September first, nineteen hundred and seven.

Circular 721, April 27, 1908, relates to the use of stills by agricultural experiment stations. (T. D. 1347.)

Suggestions regarding the manufacture of denatured alcohol at small distilleries—Materials available for such use. (Int. Rev. Cir., 706; T. D. 1242.)

Denatured-alcohol regulations explained. Instructions to collectors, revenue agents, and other internal-revenue field officers concerning the sale and use of denatured alcohol. (T. D. 1250.)

Circular relative to reports of manufacturers or wholesale dealers handling denatured alcohol. (Cir. No. 732; T. D. 1438.)

Retail dealers permitted to draw off denatured alcohol from original packages and sell in quantities not exceeding 10 gallons at any one time. (T. D. 1392.)

Completely denatured alcohol can not be lawfully sold for bathing purposes or any medicinal use. (T. D. 1495.)

Formula 23 for special denaturation of alcohol to be used in manufacture of liniment. (T. D. 2379.)

Formula for special denaturation of alcohol to be used in manufacture of phenacetin. (T. Ds. 2381, 2653.)

Formula 6-B, containing pyridine as denaturant, extended for those purposes for which special formula 17 had theretofore been authorized. (T. D. 2484.)

Formulas for mixture of alcohol withdrawn for use in hospitals, etc., with antiseptic. (T. D. 2496.)

Formulas for purpose of rendering alcohol unfit for beverage. (T. D. 2760.)

Specification for acetone content in denaturing grade of wood alcohol. (T. D. 2587.)

Formula 3-A for special denaturation of alcohol for use in manufacture of transparent soap. (T. D. 2820.)

Formula 31, for manufacture of toothpaste. (T. D. 2819.) Labels. (T. Ds. 2760, 2914.)

Formula 30 for special denaturation of alcohol for use by chemical and physical laboratories. (T. D. 2793.)

Formula 29 for denaturation of alcohol for use in manufacture of glacial acetic acid. (T. D. 2758.)

Formula for tincture of iodine. (T. Ds. 2413, 2527.)

Bromine absorption number; in testing wood alcohol, rate of flow through the burette shall not exceed 5 c. c. per minute. (T. D. 1978.)

Specifications of sulphuric acid for denaturing purposes. (T. D. 2658.)

Acetate of lime formulas. (T. D. 2252.)

Specifications for wood alcohol used as denaturant changed. (T. D. 2268.)

Formaldehyde solution formula. (T. D. 2326.)

Modification of formula used in denaturing for manufacturers of tobacco. (T. D. 1975.)

Formula 12 for specially denatured alcohol modified. (T. D. 1758.)

Callodion formulas. (T. D. 2241.)

Soap formulas. (T. Ds. 1831, 2465.)

Specifications of acetone content in denaturing grade of wood alcohol changed. (T. D. 2779.)

Formula 19 extended to preparation of callodion backings. (T. Ds. 1842, 1899.)

Chloroform formula. (T. D. 2234.)

Sulphuric ether formula. (T. Ds. 2246, 2312.)

Formula for special denaturation of alcohol to be used exclusively in manufacture of ethylaniline and diethylaniline. (T. D. 2430.)

Formulas for lacquers for food containers. (T. D. 1861.)

Alternative formula for smokeless powder authorized and formula 19 extended so as to include its use as solvent for nitrocellulose. (T. D. 1876.)

Pyroxylin plastics formula. (T. D. 1954.)

Formula for complete denaturation of alcohol for use as motive power. (T. D. 2528.)

Regulations for withdrawal of specially denatured alcohol for manufacturing purposes. (T. D. 1860.)

Manufacturers using specially denatured alcohol required to keep daily record. (T. Ds. 1842, 1898.)

Modified special denaturant used in manufacture of smoking and chewing tobacco to apply to both alcohol and rum. (T. D. 1981.)

Formula 28 for special denaturation of alcohol for use in manufacture of motor fuel. (T. D. 2769.)

Use of lead plates attached to drums containing denatured alcohol of not less than one-fourth inch in thickness permitted. (T. D. 2751.)

Shipments of alcohol in tanks or tank cars for denaturations. (T. D. 2746.)

Manufacture by
farmers of alcohol for denaturation.

SEC. IV. PAR. N, SUBSECTION 2. [Act of October 3, 1913 (38 Stat., 199).] That from and after the first day of January, nineteen hundred and fourteen, under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury may prescribe, any farmer or association of farmers, any fruit grower or association of fruit growers, or other person or

persons may manufacture alcohol free of tax for denaturation only, out of any of the products of farms, fruit orchards, or any substance whatever, on condition that such alcohol shall be directly conveyed from the still by continuous closed pipes to locked and sealed receptacles in which the same may be rendered unfit for use as an intoxicating beverage by an admixture of such denaturing materials as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe, or where such alcohol is of insufficient proof to be denatured, the same may be transferred in bond from such locked and sealed receptacles to a central distilling and denaturing plant as hereinafter provided.

That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may authorize the establishment of central distilling and denaturing plants to which alcohol produced under the provisions of this act, free of tax, may be transferred, redistilled and denatured under such regulations, and upon the execution of such notices and bonds as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe.

Central distilling and denaturing plants.

Porto Rican alcohol regarded as domestic alcohol, and, as such, may be denatured free of tax. (Opin. Atty. Gen., December 20, 1917; T. D. 2575.)

That any central distilling and denaturing plant provided for in section two [four] of this act may, in addition to the spirits produced under section one [four] of this act, use any of the products of farms, fruit orchards, or any substance whatever, for the manufacture of alcohol for denaturation only: *Provided*, That at such distilleries the use of cisterns or tanks of such size and construction as may be deemed expedient shall be permitted in lieu of distillery bonded warehouses under such rules and regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe.

Manufacture of alcohol for denaturation only.

That any person who under the provisions of this act shall fail to register, or shall falsely register, any still or distilling apparatus used by him, or who shall fraudulently remove or conceal any distilled spirits produced by him, or who shall fail to comply with all the requirements of this act, or any regulations issued pursuant thereto respecting the production and denaturation of distilled spirits; and any person who shall recover or attempt to recover by redistillation or by any other process or means, any distilled spirits after the same has been denatured, shall, on conviction, for each offense, be fined not more than \$5,000 or be imprisoned for not more than five years, or both, and shall in addition thereto forfeit to the United States all real and personal property used in connection therewith.

Punishment for violations.

That subsection two of section thirty-two hundred and forty-four of the Revised Statutes of the United States shall not apply to stills and worms manufactured for use

Special tax on manufacture of stills.

in distilling, provided for in section one [four] of this act, but the manufacturer or owner of such distilling apparatus shall give notice to the collector of internal revenue of the district in which the said apparatus is made or to which it is removed, of each still, or worm, manufactured, sold, used, or exchanged under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe.

Storage
terms at
distilleries.

dis-
small

Section four of the act of March second, nineteen hundred and seven, amendatory of the act of June seventh, nineteen hundred and six, is hereby repealed, and the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall exempt distillers operating under this act from the provisions of sections thirty-two hundred and eighty-three and thirty-three hundred and nine of the Revised Statutes of the United States, and from such other provisions of existing laws relating to distillers, including the giving of bonds, as may be deemed expedient by said officials: *Provided, however,* That the Commissioner of Internal Revenue shall assess and collect the tax on any spirits unlawfully produced or produced and not accounted for by any such distiller.

Regulations No. 30, revised, dated October 12, 1917, relative to manufacture, sale, and use of denatured alcohol under the act of June 7, 1906, amendatory act of March 2, 1907, and act of October 3, 1913.

Containers. (T. D. 2824.)

Removal for
denaturation free
of tax.

SEC. 603. [*Act of February 24, 1919 (40 Stat., 1057).*] That under such regulations as the Commissioner, with the approval of the Secretary, may prescribe, ethyl alcohol of not less than 180 degrees proof, produced at any central distilling and denaturing plant established under the provisions of subsection 2, paragraph N, of section IV of the Act entitled "An Act to reduce tariff duties and to provide revenue for the Government, and for other purposes," approved October 3, 1913, may be removed from such plant to any central denaturing bonded warehouse for denaturation, or may, before or after denaturation, be removed from such plant or from such denaturing bonded warehouse, free of tax, for use of the United States or for shipment to any nation while engaged against the German Government in the present war, and the removal herein authorized may be made in such tank vessels, tank cars, drums, casks, or other containers as may be approved by the Commissioner. It shall be lawful, under regulations prescribed by the Commissioner, with the approval of the Secretary, for an allowance to be made for leakage or loss by unavoidable accident and without fault or negligence of the distiller, owner, carrier, or his agents or employees, which may occur during the transportation of such spirits or while the same are lawfully stored on either of the premises herein described.

Allowance for
leakage, etc.

Regulations. (T. D. 2829.)

CHAPTER FIVE.

FERMENTED LIQUORS.

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| <p>Sec.</p> <p>3335. Brewer's notice.</p> <p>3336 (amended). Bond.</p> <p>3337. Books and monthly statement. Act of May 13, 1876. Section 3337 construed. Assessment.</p> <p>3338. Monthly verification of entries in books.</p> <p>3339 (amended). Tax. Fractional parts of a barrel, how estimated.</p> <p>608. Act of February 24, 1919. Change of rate of tax.</p> <p>21. Act of March 1, 1879. Gallon defined.</p> <p>3340 (amended). Evading tax, making or procuring false entries, etc.; penalty.</p> <p>3341 (amended). Stamps. Permits.</p> <p>3342 (amended). Stamps, how procured, affixed, and canceled. Penalty for fraud and neglect.</p> <p>3343. Selling, removing, or buying fermented liquor in packages without stamp or with twice-used stamp; penalty.</p> <p>3344. Drawing fermented liquor from package without stamp or without defacing stamp; penalty.</p> <p>3345. Removal for storage without stamps; penalties.</p> <p>609. Act of February 24, 1919. Conveyance to industrial distillery without payment of tax.</p> <p>3346 (amended). Making, selling, or using false or counterfeit stamps or permits, reusing stamps, having removed stamps in possession, selling same; penalty.</p> | <p>Sec.</p> <p>3347. Sour malt liquors, how removable without stamps.</p> <p>3348. Brewers selling at retail at brewery.</p> <p>3349. Packages to be marked; penalty. One brewer purchasing from another.</p> <p>3350. Permit to carry on business at another place on account of accident.</p> <p>3351. Unfermented worts sold to other brewers.</p> <p>3352. Fermented liquor removed from brewery without payment of tax forfeited. Absence of stamps to be notice and evidence.</p> <p>3353. Removal or defacement of stamps; penalty.</p> <p>3354 (amended). Withdrawing fermented liquor from unstamped packages for bottling, or bottling on brewery premises; penalty. Fermented liquor permitted to be removed from brewery through pipe or conduit for bottling only.</p> <p>607. Act of February 24, 1919. Apparatus at breweries.</p> <p>Act of June 18, 1890. Removal of fermented liquors for export without payment of tax.</p> <p>15. Act of August 10, 1917. Use of food products in manufacture of malt liquors.</p> <p>1. Act of November 21, 1918. Same.</p> <p>5. Act of March 3, 1917. Advertisements in certain States. Shipments into States prohibiting sale.</p> |
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SEC. 3335. Every brewer shall, before commencing or continuing business, file with the collector, or proper deputy collector, of the district in which he designs to carry it on a notice in writing, stating the name of the person, company, corporation, or firm, the names of the members of any such company or firm, the places of residence of such persons, a description of the premises on which the brewery is situated, and of his or their title thereto, and the name of the owner thereof. Brewer's notice of business.

A person manufacturing for sale a fermented liquor, made from a substitute for malt, must qualify as a brewer. (T. D. 646.)

Definition of brewer. Special tax of brewer. (Sec. 3244, p. 162.)

Bond.

SEC. 3336. [*Amended by the act of April 29, 1886 (24 Stat., 15).*] Every brewer, on filing notice as aforesaid of his intention to commence or continue business, * * * shall execute a bond to the United States, to be approved by the collector of the district, in a sum equal to three times the amount of the tax which, in the opinion of the collector, said brewer will be liable to pay during any one month, and conditioned that he shall pay, or cause to be paid, as herein provided, the tax required by law on all beer, lager-beer, ale, porter, and other fermented liquors made by or for him, before the same is sold or removed for consumption or sale, except as hereinafter provided; and that he shall keep, or cause to be kept, a book, in the manner and for the purposes hereinafter specified, which shall be open to inspection by the proper officers, as by law required; and that he shall in all respects faithfully comply, without fraud or evasion, with all requirements of law relating to the manufacture and sale of any malt liquors aforesaid; and he shall execute a new bond once in four years and whenever required so to do by said collector in the amount above named and conditioned as above provided, which bond shall be in lieu of any former bond or bonds of such brewer in respect to all liabilities accruing after its approval by said collector.

In case of incorporated companies the bond must be executed in their corporate capacity and under their corporate seals and signatures.

In case of a brewing company not incorporated the name of the firm as well as of each member thereof must be recited in the bond, which should be signed by each member of the firm.

No provision is made for cancellation of bond where brewers have gone out of business before the expiration of the four years. (T. D. 648.)

A second bond given voluntarily during the four-year period is merely cumulative and does not release the first bond. (T. D. 834.)

Executors, administrators, assignees, and receivers continuing the business must execute a new bond.

Brewer's books.

SEC. 3337. Every person who owns or occupies any brewery, or premises used or intended to be used for the purpose of brewing or making such fermented liquors, or who has such premises under his control or superintendence, as agent for the owner or occupant, or has in his possession or custody any brewing materials, utensils, or apparatus, used or intended to be used on said premises in the manufacture of beer, lager-beer, ale, porter, or other similar fermented liquors, either as owner, agent, or superintendent, shall, from day to day, enter, or cause to be entered, in a book to be kept by him for that purpose, the kind of such malt liquors, the estimated quantity produced in barrels, and the actual quantity sold or removed for consumption or sale in barrels or fractional parts of barrels. He shall also, from day to day, enter, or cause to be entered, in a separate book to be kept by him for

that purpose, an account of all materials by him purchased for the purpose of producing such fermented liquors, including grain and malt.

And he shall render to the collector, or the proper deputy collector, on or before the tenth day of each month, a true statement, in writing, in duplicate, taken from his books, of the estimated quantity in barrels of such malt liquors brewed, and the actual quantity sold or removed for consumption or sale during the preceding month; and shall verify, or cause to be verified, the said statement, and the facts therein set forth, by oath, to be taken before the collector of the district, or proper deputy collector, according to the form required by law. Monthly statement.

Said books shall be open at all times for the inspection of any collector, deputy collector, inspector, or revenue agent, who may take memorandums and transcripts therefrom.

Forms revised. (T. D. 2471.)

United States v. Obermeyer (5 Ben., 541; 15 Int. Rev. Rec., 83; 27 Fed. Cas., 211). United States v. Miller (16 Int. Rev. Rec., 25; 25 Fed. Cas., 1257).

Brewers' returns.—Returns made by brewers of the amount of beer manufactured and sold by them are made under compulsion of law for but one purpose, namely, the collection of revenue for the United States, and copies thereof are not permitted to be furnished to any persons for other purposes. (T. D. 19443.) Verification of returns. (T. D. 1046.)

[*Act of May 13, 1876 (19 Stat., 53).*] That nothing contained in section three thousand three hundred and thirty-seven of the Revised Statutes of the United States shall be so construed as to authorize an assessment upon the quantity of materials used in producing or purchased for the purpose of producing, fermented or malt liquors, nor shall the quantity of materials so used or purchased be evidence, for the purpose of taxation, of the quantity of liquor produced; but the tax on all beer, lager-beer, ale, porter, or other similar fermented liquor, brewed or manufactured, and sold or removed for consumption or sale, shall be paid as provided in section three thousand three hundred and thirty-nine of said statutes, and not otherwise. Sec. 3337, R. S., construed.

Provided, That this act shall not apply to cases of fraud. Cases of fraud excepted.

And provided further, That nothing in this act shall have the effect to change the present rules of law respecting evidence in any prosecution or suit. No change of rules of law as to evidence in suits, etc.

Bergdoll v. Pollock, 95 U. S., 337; 24 Int. Rev. Rec., 2.

SEC. 3338. The entries made in such books shall, on or before the tenth day of each month, be verified by the oath of the person by whom they are made. The said oath shall be written in the book at the end of such

entries, and be certified by the officer administering the same, and shall be in form as follows:

Monthly verification of entries in books.

I do swear (or affirm) that the foregoing entries were made by me; and that they state truly, according to the best of my knowledge and belief, the estimated quantity of the whole amount of such malt liquors brewed, and the actual quantity sold, and the actual quantity removed, from the brewery owned by —, in the county of —; and, further, that I have no knowledge of any matter or thing required by law to be stated in said entries which has been omitted therefrom.

And the owner, agent, or superintendent aforesaid shall also, in case the original entries made in his book where not made by himself, subjoin thereto the following oath, to be taken in manner as aforesaid:

I do swear (or affirm) that, to the best of my knowledge and belief the foregoing entries fully set forth all the matters therein required by law; and that the same are just and true, and that I have taken all the means in my power to make them so.

Brewer required to enter all malt liquors in his book. "Malt liquor" and "fermented liquor" used synonymously. (United States v. Dooley, 21 Int. Rev. Rec., 115; 25 Fed. Cas. 890, No. 14984.)

A book of general accounts kept by a brewer in conducting his business can not be deemed a book of entries of materials purchased, or such a book as the statute requires. (United States v. Bellingsstein, 16 Int. Rev. Rec., 92; Fed. Cas., No. 14566.)

Tax on fermented liquors.

SEC. 3339. [*Amended by the act of April 12, 1902 (32 Stat., 96).*] There shall be paid on all beer, lager-beer, ale, porter, and other similar fermented liquors, brewed or manufactured and sold, or stored in warehouse, or removed for consumption or sale, within the United States, by whatever name such liquors may be called, a tax of one dollar for every barrel containing not more than thirty-one gallons; and at a like rate for any other quantity or for any fractional part of a barrel. In estimating and computing such tax, the fractional parts of a barrel shall be halves, thirds, quarters, sixths, and eighths; and any fractional part of a barrel, containing less than one-eighth, shall be accounted one-eighth; more than one-eighth, and not more than one-sixth, shall be accounted one-sixth; more than one-sixth, and not more than one-fourth, shall be accounted one-fourth; more than one-fourth, and not more than one-third, shall be accounted one-third; more than one-third, and not more than one-half, shall be accounted one-half; more than one-half, and not more than one barrel, shall be accounted one barrel; and more than one barrel, and not more than sixty-three gallons, shall be accounted two barrels, or a hogshead. The said tax shall be paid by the owner, agent, or superintendent of the brewery or premises in which such fermented liquors are made, and in the manner and at the time hereinafter specified: *Provided*, That in lieu of or in addition to the present requirements of law in that respect, all stamps used for denoting the tax upon fermented liquors or other taxes

Amendment of March 2, 1901.

may, in the discretion of the Commissioner of Internal Revenue, be canceled by perforations to be made in such manner and form as the Commissioner may by regulations prescribe.

SEC. 608. [Act of February 24, 1919 (40 Stat., 1067).] That there shall be levied and collected on all beer, lager beer, ale, porter, and other similar fermented liquor, containing one-half of one per centum, or more, of alcohol, brewed or manufactured and hereafter sold, or removed for consumption or sale, within the United States, by whatever name such liquors may be called, in lieu of the internal-revenue taxes now imposed thereon by law, a tax of \$6.00 for every barrel containing not more than thirty-one gallons, and at a like rate for any other quantity or for the fractional parts of a barrel authorized and defined by law, to be collected under the provisions of existing law.

Acts imposing tax on fermented liquors and rates of tax.

	Per barrel.
From September, 1862, to March 3, 1863 (act July 1, 1862) -----	\$1.00
From March 3, 1863, to March 31, 1864 (act March 3, 1863) -----	.00
From April 1, 1864, to June 13, 1868 -----	1.00
From June 14, 1868, to June 30, 1901 -----	2.00
From July 1, 1901, to June 30, 1902 -----	1.00
From July 1, 1902, to October 22, 1914 -----	1.00
From October 23, 1914, to October 3, 1917 -----	1.50
From October 4, 1917, to February 24, 1919 -----	3.00
From February 25, 1919 -----	6.00

The act of March 3, 1863, provided that the tax on fermented liquors should be 60 cents per barrel from the date of the passage of that act to April 1, 1864. Hence the tax of 60 cents per barrel having expired by limitation April 1, 1864, the tax of \$1 per barrel under the act of July 1, 1862, was again revived, which rate was increased to \$2 under act of June 13, 1868.

The act of July 13, 1866 (14 Stat., 98), changed the mode of assessing and collecting the tax on fermented liquors, and made the tax on them after September 1, 1866, payable by stamps.

Weiss beer taxable. (Special No. 153; 29 Int. Rev. Rec., 313.)

Imported malt liquors. (Sec. 11, act of Mar. 1, 1879, p. 289.)

The manufacturer of a drink called "Maltina," similar to beer, lager beer, ale, and porter, made in part from one of those liquors and in part from another substance, is liable as a brewer. (Davis v. Daugherty, 105 Fed., 769.)

A liquor made from barley malt, fermented by means of a wine yeast, is a fermented malt liquor, for the manufacture of which for sale the special tax of a brewer is required to be paid, and on which tax is imposed, notwithstanding the fact that by the use of a wine yeast instead of a beer yeast it has the appearance and taste of wine. (T. D. 19025.)

Malt tonics and extracts containing more than 2 per cent of alcohol and less than 12 per cent of solids due to malt classed as fermented malt liquors. (T. D. 2717.)

"Temperance beer," manufacture and sale of. (T. Ds. 1307, 1360, 2354, 2359, 2370, 2410, 2921.)

Gallon defined.

SEC. 21. [*Act of March 1, 1879 (20 Stat., 327).*] That the word "gallon," wherever used in the internal-revenue law, relating to beer; lager-beer, ale, porter, and other similar fermented liquors, shall be held and taken to mean a wine-gallon, the liquid measure containing two hundred and thirty-one cubic inches.

The standard gallon of the United States contains 231 cubic inches or 8.3389 pounds avoirdupois of distilled water at its maximum density and with the barometer at 30 inches. (Webster's Dictionary.)

The old beer gallon of 282 cubic inches was recognized as the standard for domestic malt liquors before the act of March 1, 1879. That act was passed to make the gallon conform to the standard in the customs service and to that recognized by the mercantile community. (16 Op. Atty. Gen., 361; *Nichols v. Beard*, 29 Int. Rev. Rec., 46.)

Evading tax, making or procuring false entries, etc.; penalty.

SEC. 3340. [*Amended by sec. 10, act of March 1, 1879 (20 Stat., 327).*] Every owner, agent, or superintendent of any brewery, vessels, or utensils used in making fermented liquors, who evades, or attempts to evade the payment of the tax thereon, or fraudulently neglects or refuses to make true and exact entry and report of the same in the manner required by law, or to do, or cause to be done, any of the things by law required to be done by him * * *, or who intentionally makes false entry in said book or in said statement, or knowingly allows or procures the same to be done, shall forfeit, for every such offense, all the liquors made by him or for him, and all the vessels, utensils, and apparatus used in making the same, and be liable to a penalty of not less than five hundred nor more than one thousand dollars, to be recovered with costs of suit, and shall be deemed guilty of a misdemeanor, and be imprisoned for a term not exceeding one year.

Penalty for not keeping books, etc.

And every brewer who neglects to keep books, or refuses to furnish the account and duplicate thereof as provided by law, or refuses to permit the proper officer to examine the books in the manner provided, shall, for every such refusal or neglect, forfeit and pay the sum of three hundred dollars.

The words "as aforesaid" were stricken out in the seventh line by section 10, act March 1, 1879 (20 Stat., 327).

Brewer liable for neglecting to keep books, although there was no criminal intent. (*United States v. Miller*, 16 Int. Rev. Rec., 25; *United States v. Foster*, 19 Id., 5; 25 Fed. Cas., 1173; 2 Biss., 453; *United States v. Bellingstein*, Fed. Cas. No. 14566; 16 Int. Rev. Rec., 92; *Archbold's Crim. Prac.*, p. 395).

Evading or attempting to evade the tax forfeits all the liquors made, and all the vessels, utensils, and apparatus used in making the same. (*United States v. Brewery Utensils*, 13 Int. Rev. Rec., 95; Fed. Cas. No. 14641.)

Stamps, how supplied and sold.

SEC. 3341. [*Amended by sec. 9, act of July 24, 1897 (30 Stat., 151).*] The Commissioner of Internal Revenue shall cause to be prepared, for the payment of such tax, suitable stamps denoting the amount of tax required to

be paid on the hogsheads, barrels, and halves, thirds, quarters, sixths, and eighths of a barrel of such fermented liquors (and shall also cause to be prepared suitable permits for the purpose hereinafter mentioned), and shall furnish the same to the collectors of internal revenue, who shall each be required to keep on hand at all times a sufficient supply of permits and a supply of stamps equal in amount to two months' sales thereof, if there be any brewery or brewery warehouse in his district; and such stamps shall be sold, and permits granted and delivered by such collectors, only to the brewers of their district, respectively.

Permits.

Such collectors shall keep an account of the number of permits delivered and of the number and value of the stamps sold by them to each brewer.

As to stamps, see section 3446, amended, p. 539.

Relative to sale to sheriff of stamps for tax on beer levied upon or attached by him. (Letter to Collector Johnson, Feb. 15, 1894; 40 Int. Rev. Rec., 53.)

Under the act of July 24, 1897, a brewer was required to pay the full face value of the stamps purchased, without deduction of the $7\frac{1}{2}$ per cent discount previously allowed. The act of June 13, 1898, increasing the tax to \$2 per barrel, restored the right to the discount. The right to the discount was repealed by the act of March 2, 1901 (31 Stat., 938). (*Nunn v. Wm. Gerst Brewing Co.*, 99 Fed., 939; *Nassau Brewing Co. v. Moore*, 97 Fed., 206.)

A collector's duty, as prescribed by section 3341, Revised Statutes, is to keep on hand stamps equal in amount to two months' sale thereof. The law does not permit transactions for future delivery. The agency is limited to the stock on hand. (*The American Brewing Co. v. United States*, 33 Ct. Cls., 348; *T. D. 19248*.)

Restamping packages, where stamps are lost or destroyed by unavoidable accident. (Sec. 3315, R. S., as amended, p. 270.)

Form of order for stamps. (*T. D. 2471*.)

SEC. 3342. [*Amended by act of March 3, 1875 (18 Stat., 484).*] That every brewer shall obtain, from the collector of the district in which his brewery or brewery-warehouse is situated, and not otherwise unless such collector shall fail to furnish the same upon application to him, the proper stamps, and shall affix, upon the spigot-hole in the head of every hogshead, barrel, keg, or other receptacle in which any fermented liquor is contained, when sold or removed from such brewery or warehouse, (except in case of removal under permit, as hereinafter provided,) a stamp denoting the amount of the tax required upon such fermented liquor, which stamp shall be destroyed by driving through the same the faucet through which the liquor is to be withdrawn, or an air-faucet of equal size, at the time the vessel is tapped, in case the vessel is tapped through the other spigot-hole, (of which there shall be but two, one in the head and one in the side,) and shall, also, at the time of affixing such stamp, cancel the same by writing or imprinting thereon the name of the person, firm, or corporation by whom

Stamps, how
procured, affixed,
and canceled.

such liquor was made, or the initial letters thereof, and the date when canceled.

Penalty for
fraud or neglect.

Every brewer who refuses or neglects to affix and cancel the stamps required by law in the manner aforesaid, or who affixes a false or fraudulent stamp thereto, or knowingly permits the same to be done, shall pay a penalty of one hundred dollars for each barrel or package on which such omission or fraud occurs, and be imprisoned not more than one year.

Beer stamps are not articles of merchandise. They are merely evidence of payment of tax. (*American Brewing Co. v. United States*, 33 Ct. Cls., 349; *Numm v. Wm. Gerst Brewing Co.*, 99 Fed., 939; *Nassau Brewing Co. v. Moore*, 97 Fed., 206.)

Stamps must be affixed upon a spigot hole in the head of the package. (*United States v. McKechnie*, 15 Int. Rev. Rec., 8; Fed. Cas. No. 15682.)

As to spigot holes. (32 Int. Rev. Rec., 317; see T. D. 743, T. D. 751, and T. D. 762.)

The proviso in the first section of the act of March 2, 1901, reads as follows:

"*Provided*, That in lieu of or in addition to the present requirements of law in that respect, all stamps used for denoting the tax upon fermented liquors or other taxes may, in the discretion of the Commissioner of Internal Revenue, be canceled by perforations to be made in such manner and form as the Commissioner may by regulations prescribe."

In the exercise of the authority thus conferred it was prescribed that on and after September 1, 1901, and until otherwise ordered, all stamps used for denoting the tax upon fermented liquors shall be canceled by perforations. (Regulations No. 6, revised, p. 13.)

Where the law prescribes as punishment for an offense both a money penalty and imprisonment, it is not true that the penalty can only be enforced by indictment. The Government can maintain an action of debt for the money penalty. (*United States v. Foster*, 2 Biss., 453; 19 Int. Rev. Rec., 5.)

It is sufficient as a general rule to charge an offense in the language of the statute. (*United States v. Schimer*, 5 Biss., 195.)

Selling, removing, or buying fermented liquor in packages without stamp, or false stamp, or with twice-used stamp; penalty.

SEC. 3343. Whenever any brewer, cartman, agent for transportation, or other person, sells, removes, receives, or purchases, or in any way aids in the sale, removal, receipt, or purchase, of any fermented liquor contained in any hogshead, barrel, keg, or other vessel from any brewery or brewery warehouse, upon which the stamp, or permit, in case of removal, required by law, has not been affixed, or on which a false or fraudulent stamp, or permit, in case of removal, is affixed, with knowledge that it is such, or on which a stamp, or permit, in case of removal, once canceled, is used a second time, he shall be fined one hundred dollars and imprisoned for not more than one year.

Drawing fermented liquor from package without stamp, or with false stamp, or without defacing stamp; penalty.

SEC. 3344. Whenever any retail dealer, or other person, withdraws or aids in the withdrawal of any fermented liquor from any hogshead, barrel, keg, or other vessel containing the same, without destroying or defacing the stamp affixed thereon, or withdraws or aids in the with-

drawal of any fermented liquor from any hogshead, barrel, keg, or other vessel, upon which the proper stamp has not been affixed or on which a false or fraudulent stamp is affixed, he shall be fined one hundred dollars and imprisoned not more than one year.

See section 3455, page 596, as to selling, receiving, etc., empty stamped packages.

SEC. 3345. Any brewer may remove or transport, or cause to be removed or transported, from his brewery or other place of manufacture to a depot, warehouse, or other place used exclusively for storage or sale in bulk, and occupied by him, in another part of the same collection-district, or in another collection-district, but to no other place, malt liquor of his own manufacture, known as lager-beer, in quantities of not less than six barrels in one vessel, and malt liquor of his own manufacture, known as ale or porter, or any other malt liquor of his own manufacture not heretofore mentioned, in quantities not less than fifty barrels at a time, without affixing the proper stamps on said vessels of lager-beer, ale, porter, or other malt liquor, at the brewery or place of manufacture, under a permit, which shall be granted, upon application, by the collector of the district in which said malt liquor is manufactured, and under such regulations as the Commissioner of Internal Revenue may prescribe; and thereafter the manufacturer of said malt liquor shall stamp the same, when it leaves such depot or warehouse, in the same manner and under the same penalties and liabilities as when stamped at the brewery as herein provided.

Removal for
storage without
stamps.

Permit.

And the collector of the district in which such depot or warehouse is situated shall furnish the manufacturer with the stamps for stamping the same, as if the said malt liquor had been manufactured in his district. And said permit must be affixed to every such vessel or cask so removed, and canceled or destroyed in such manner as the Commissioner of Internal Revenue may prescribe, and under the same penalties and liabilities as provided herein as to stamps.

SEC. 609. [*Act of February 24, 1919 (40 Stat., 1057).*] That from and after the passage of this Act taxable fermented liquors may be conveyed without payment of tax from the brewery premises where produced to a contiguous industrial distillery of either class established under the Act entitled "An Act to reduce tariff duties and to provide revenue for the Government, and for other purposes," approved October 3, 1913, to be used as distilling material, and the residue from such distillation, containing less than one-half of 1 per centum of alcohol by volume, which is to be used in making beverages, may be manipulated by cooling, flavoring, carbonating, settling, and filtering on the distillery premises or elsewhere.

Conveyance to
industrial distil-
lery without
payment of tax.

The removal of the taxable fermented liquor from the brewery to the distillery and the operation of the distillery and removal of the residue therefrom shall be under the supervision of such officer or officers as the Commissioner shall deem proper, and the Commissioner, with the approval of the Secretary, is hereby authorized to make such regulations from time to time as may be necessary to give force and effect to this section and to safeguard the revenue.

Making, setting, or using false stamps, permits, or dies.

SEC. 3346. [*Amended by sec. 5, act of March 1, 1879 (20 Stat., 327).*] Every person who makes, sells, or uses any false or counterfeit stamp or permit, or die for printing or making stamps or permits, which is in imitation of or purports to be a lawful stamp, permit, or die of the kind before mentioned in this chapter, or who procures the same to be done, and every person who shall remove, or cause to be removed, from any cask or package of fermented liquors, any stamp denoting the tax thereon, with intent to re-use such stamp, or who, with intent to defraud the revenue, knowingly uses, or permits to be used, any stamp removed from another cask or package, or receives, buys, sells, gives away, or has in his possession, any stamp so removed, or makes any fraudulent use of any stamp for fermented liquors, shall be fined not less than one hundred dollars nor more than one thousand dollars, and imprisoned not less than six months nor more than three years.

Removing, re-using stamps, selling or having in possession removed stamps; penalty.

All officers are instructed that canceled beer stamps, or stamps that have been once used, found in the hands of a brewer or other person, should be seized, marked for identification, and deposited with the collector for use in a prosecution to be instituted under section 3346, R. S., as amended. (Cir. No. 407.)

Sour malt liquors removable in peculiar packages without stamps.

SEC. 3347. When fermented liquor has become sour or damaged, so as to be incapable of use as such, brewers may sell the same for manufacturing purposes, and may remove the same to places where it may be used for such purposes, in casks, or other vessels, unlike those ordinarily used for fermented liquors, containing respectively not less than one barrel each, and having the nature of their contents marked upon them, without affixing thereon the permit, stamp or stamps required.

Section 3347, Revised Statutes, providing for the sale by a brewer of sour beer in peculiar packages without a stamp does not confer the privilege of removing a stamp for reuse in the case of beer soured or spoiled after being stamped. A stamp once applied to a package can never legally be removed and applied to another.

No refund allowed of money paid for stamps on packages of beer which have soured after removal from the brewery. (T. D. 799.)

Brewers selling at retail at brewery to affix stamps and keep account.

SEC. 3348. Every brewer who sells fermented liquor at retail at the brewery or other place where the same is made, shall affix and cancel the proper stamps upon the hogsheads, barrels, kegs, or other vessels in which the

same is contained, and shall keep an account of the quantity so sold by him, and of the number and size of the hogsheads, barrels, kegs, or other vessels in which the same has been contained, and shall make a report thereof, verified by oath, monthly to the collector.

SEC. 3349. Every brewer shall, by branding, mark or cause to be marked upon every hogshead, barrel, keg, or other vessel containing the fermented liquor made by him, before it is sold or removed from the brewery or brewery warehouse, or other place of manufacture, the name of the person, firm, or corporation by whom such liquor was manufactured, and the place of manufacture; and every person other than the owner thereof, or his agent authorized so to do, who intentionally removes or defaces such marks therefrom, shall be liable to a penalty of fifty dollars for each cask or other vessel from which the mark is so removed or defaced:

Name of manufacturer, etc., to be marked on packages; penalty for removing marks, etc.

Provided, That when a brewer purchases fermented liquor finished and ready for sale from another brewer, in order to supply the customers of such purchaser, the purchaser may, upon written notice to the collector of his intention so to do, and under such regulations as the Commissioner of Internal Revenue may prescribe, furnish his own vessels, branded with his name and the place where his brewery is situated, to be filled with the fermented liquor so purchased, and to be so removed; the proper stamps to be affixed and canceled, as aforesaid, by the manufacturer before removal.

Brewer purchasing fermented liquor from another brewer.

See section 3244, subdivision fifth, page 170, for liability to special tax in such cases.

Shipping fermented liquors under other than the name as known to the trade. (Sec. 3449, R. S.)

SEC. 3350. Whenever, in the opinion of the collector of any district, it becomes requisite or proper, by reason of an accident to any brewery therein, by fire or flood, or of such brewery undergoing repairs, or of other circumstances, that the brewer carrying on the same shall be permitted to conduct his business wholly or in part at some other place within such district or an adjoining district for a temporary period, it shall be lawful for such collector, under such regulations and subject to such limitation of time as the Commissioner of Internal Revenue may prescribe, to issue a permit to such brewer, authorizing him to conduct his business wholly or in part, according to the circumstances, at such other place, for a period to be stated in such permit; and such brewer shall not be required to pay another special tax for the purpose.

Permit to carry on business at another place on account of accident.

SEC. 3351. When malt liquor or tun liquor, in the first stages of fermentation, known as unfermented worts, of whatever kind, is sold by one brewer to another for the purpose of producing fermentation or enlivening old or stale ale, porter, lager-beer, or other fermented liquors, it shall not be liable to a tax to be paid by the seller

Unfermented worts sold to other brewers; how tax shall be paid.

thereof, but the tax on the same shall be paid by the purchaser thereof, when the same, having been mixed with the old or stale beer, is sold by him as provided by law, and such sale or transfer shall be subject to such restrictions and regulations as the Commissioner of Internal Revenue may prescribe.

Possession of fermented liquor after removal from warehouse when tax not paid cause of forfeiture.

SEC. 3352. The ownership or possession by any person of any fermented liquor after its sale or removal from the brewery or warehouse, or other place where it was made, upon which the tax required has not been paid, shall render such liquor liable to seizure wherever found, and to forfeiture, removal under said permits excepted.

Absence of stamps to be notice and evidence.

And the absence of the proper stamps from any hogshead, barrel, keg, or other vessel containing fermented liquor, after its sale or removal from the brewery where it was made, or warehouse as aforesaid, shall be notice to all persons that the tax has not been paid thereon, and shall be prima-facie evidence of the non-payment thereof.

Removal or defacement of stamps by others than the owner; penalty.

SEC. 3353. Every person, other than the purchaser or owner of any fermented liquor, or person acting on his behalf, or as his agent, who intentionally removes or defaces the stamp or permit affixed upon the hogshead, barrel, keg, or other vessel, in which the same is contained, shall be liable to a fine of fifty dollars for each such vessel from which the stamp or permit is so removed or defaced, and to render compensation to such purchaser or owner for all damages sustained by him therefrom.

Withdrawing liquor from unstamped packages for bottling, or bottling on brewery premises.

SEC. 3354. [*Amended by act of June 18, 1890 (26 Stat., 161) and sec. 627 of act of February 24, 1919 (40 Stat., 1057).*] Every person who withdraws any fermented liquor from any hogshead, barrel, keg, or other vessel upon which the proper stamp has not been affixed for the purpose of bottling the same, or who carries on or attempts to carry on the business of bottling fermented liquor in any brewery or other place in which fermented liquor is made, or upon any premises having communication with such brewery, or any warehouse, shall be liable to a fine of \$500, and the property used in such bottling or business shall be liable to forfeiture: *Provided, however,* That this section shall not be construed to prevent the withdrawal and transfer of unfermented, partially fermented, or fermented liquors from any of the vats in any brewery by way of a pipe line or other conduit to another building or place for the sole purpose of bottling the same, such pipe line or conduit to be constructed and operated in such manner and with such cisterns, vats, tanks, valves, cocks, faucets, and gauges, or other utensils or apparatus, either on the premises of the brewery or the bottling house, and with such changes of or additions thereto, and such locks, seals, or other fastenings, and under such rules and regulations as shall be from time to time prescribed by the Commissioner of Internal Revenue, subject to the approval of the Secretary of the Treasury, and all locks and

Removal of fermented liquor to bottling establishment by pipe line or conduit.

seals prescribed shall be provided by the Commissioner of Internal Revenue at the expense of the United States: *Provided further*, That the tax imposed in section 3339 of the Revised Statutes shall be paid on all fermented liquor removed from a brewery to a bottling house by means of a pipe or conduit, at the time of such removal, by the cancellation and defacement, by the collector of the district or his deputy, in the presence of the brewer, of the number of stamps denoting the tax on the fermented liquor thus removed. The stamps thus canceled and defaced shall be disposed of and accounted for in the manner directed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. And any violation of the rules and regulations hereafter prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, in pursuance of these provisions, shall be subject to the penalties above provided by this section. Every owner, agent, or superintendent of any brewery or bottling house who removes, or connives at the removal of, any fermented liquor through a pipe line or conduit, without payment of the tax thereon, or who attempts in any manner to defraud the revenue as above, shall forfeit all the liquors made by and for him, and all the vessels, utensils, and apparatus used in making the same.

Cancellation
and defacement
of stamps.

Beer intended for bottling, except when removed by pipe line, must be drawn into stamped packages and removed from the brewery, and the bottling premises must be so separated from the brewery that the beer must be carried upon a street or road which is a public highway, actually and commonly used as a thoroughfare by the public, in its passage from the brewery to the bottling establishment. (Int. Rev. Reg. No. 6, revised, under "Bottling.")

Concerning the transfer of fermented liquors from a brewery by way of pipe line or conduit for the sole purpose of bottling the same. (Regulations No. 6, revised.)

SEC. 607. [Act of February 24, 1919 (40 Stat., 1057).] That the Commissioner, with the approval of the Secretary, is hereby authorized to require at distilleries, breweries, rectifying houses, and wherever else in his judgment such action may be deemed advisable, the installation of meters, tanks, pipes, or any other apparatus for the purpose of protecting the revenue, and such meters, tanks, and pipes and all necessary labor incident thereto shall be at the expense of the person on whose premises the installation is required. Any such person refusing or neglecting to install such apparatus when so required by the Commissioner shall not be permitted to conduct business on such premises.

Apparatus at
breweries.

EXPORTATION OF FERMENTED LIQUORS.

[Act of June 18, 1890 (26 Stat., 162).] That from and after the first day of January, eighteen hundred and ninety-one, fermented liquor may be removed from the place of manufacture, or storage, for export to a

Exportation of
fermented liq-
uors.

No drawback.

foreign country, without payment of tax, in such packages and under such regulations, and upon the giving of such notices, entries, bonds, and other security, as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may from time to time prescribe; and no drawback of tax shall be allowed on fermented liquor exported on and after the first day of January, eighteen hundred and ninety-one, unless entered for exportation prior to such date.

This operates as a repeal, on and after January 1, 1891, of section 3441, R. S., as amended. (Regulations No. 29; T. D. 540.)

USE OF FOOD PRODUCTS DURING WAR.

Restrictions on
use of food ma-
terials.

SEC. 15. [Act of August 10, 1917 (40 Stat., 276).]
* * * Whenever the President shall find that limitation, regulation, or prohibition of the use of foods, fruits, food materials, or feeds in the production of malt or vinous liquors for beverage purposes, or that reduction of the alcoholic content of any such malt or vinous liquor is essential in order to assure an adequate and continuous supply of food, or that the national security and defense will be subserved thereby, he is authorized, from time to time, to prescribe and give public notice of the extent of the limitation, regulation, prohibition, or reduction so necessitated. Whenever such notice shall have been given and shall remain unrevoked no person shall, after a reasonable time prescribed in such notice, use any foods, fruits, food materials, or feeds in the production of malt or vinous liquors, or import any such liquors except under license issued by the President and in compliance with rules and regulations determined by him governing the production and importation of such liquors and the alcoholic content thereof. Any person who willfully violates the provisions of this section, or who shall use any foods, fruits, food materials, or feeds in the production of malt or vinous liquors, or who shall import any such liquors, without first obtaining a license so to do when a license is required under this section, or who shall violate any rule or regulation made under this section, shall be punished by a fine not exceeding \$5,000 or by imprisonment for not more than two years, or both: *Provided further*, That nothing in this section shall be construed to authorize the licensing of the manufacture of vinous or malt liquors in any State, Territory, or the District of Columbia, or any civil subdivision thereof, where the manufacture of such vinous or malt liquor is prohibited.

Penalty.

A PROCLAMATION.

Whereas, under and by virtue of an act of Congress entitled "An act to provide further for the national security and defense by encouraging the production, conserving the supply, and controlling the distribution of food products

and fuel," approved by the President on August 10, 1917, it is provided in section 15, among other things, as follows:

"Whenever the President shall find that limitation, regulation, or prohibition of the use of foods, fruits, food materials, or feeds in the production of malt or vinous liquors for beverage purposes, or that reduction of the alcoholic content of any such malt or vinous liquor, is essential, in order to assure an adequate and continuous supply of food, or that the national security and defense will be subserved thereby, he is authorized, from time to time, to prescribe and give public notice of the extent of the limitation, regulation, prohibition, or reduction so necessitated. Whenever such notice shall have been given and shall remain unrevoked, no person shall, after a reasonable time prescribed in such notice, use any foods, fruits, food materials, or feeds in the production of malt or vinous liquors, or import any such liquors except under license issued by the President and in compliance with rules and regulations determined by him governing the production and importation of such liquors and the alcoholic content thereof."

Now, therefore, I, Woodrow Wilson, President of the United States of America, by virtue of the powers conferred on me by said act of Congress, do hereby find and determine that it is essential, in order to assure an adequate and continuous supply of food, in order to subserve the national security and defense, and because of the increasing requirements of war industries for the fuel productive capacity of the country, the strain upon transportation to serve such industries, and the shortage of labor caused by the necessity of increasing the armed forces of the United States, that the use of sugar, glucose, corn, rice or any other foods, fruits, food materials and feeds in the production of malt liquors including near beer, for beverage purposes be prohibited. And by this proclamation I prescribe and give public notice that on and after October 1st, 1918, no person shall use any sugar, glucose, corn, rice or any other foods, fruits, food materials or feeds, except hops and malt now already made, in the production of malt liquors, including near beer, for beverage purposes, whether or not such malt liquors contain alcohol, and on and after December 1st, 1918, no person shall use any sugar, glucose, corn, rice or any other foods, fruits, food materials or feeds, including malt, in the production of malt liquors, including near beer, for beverage purposes, whether or not such malt liquors contain alcohol.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done in the District of Columbia, this 16th day of September in the year of our Lord One Thousand Nine Hundred and Eighteen, and of the Independence of the United States of America the One Hundred and Forty-Third.

WOODROW WILSON.

By the President:

ROBERT LANSING,
Secretary of State.

RULES AND REGULATIONS GOVERNING THE PRODUCTION OF MALT LIQUORS AND THE ALCOHOLIC CONTENT THEREOF.

Promulgated by the President under the authority of section 15 of the act of Congress approved August 10, 1917, entitled "An act to provide further for the national security and defense by encouraging the production, conserving the supply, and controlling the distribution of food prod-

ucts and fuel," and in accordance with proclamations concerning malt liquor, issued December 8, 1917, and September 16, 1918.

Rule 1. During the period from October 1, 1918, to December 1, 1918, only malt and hops shall be used in the production of any malt liquor, provided that any dextrinous or other sirups which have been specially prepared for the manufacture of near beer and which are in the licensee's possession or shipped to him prior to October 1, 1918, may be used in the manufacture of such near beer.

Rule 2. The limitations on quantity of malt and hops used in the manufacture of beer or near beer, contained in the proclamation of December 8, 1917, shall not apply during the period from October 1, 1918, to December 1, 1918, but nothing in this rule shall be construed to modify in any way the limitation on alcoholic content of malt liquor prescribed by said proclamation of December 8, 1917.

Rule 3. No person shall import any malt liquor for beverage purposes on and after December 1, 1918.

Rule 4. The prohibitions contained in the proclamation of September 16, 1918, shall not apply to material actually in process of manufacture prior to the dates named in said proclamation, but the fact that material is on hand in the brewery or factory shall not authorize any exception to be made other than that referred to in rule 1.

The foregoing regulations are approved on this 30th day of September, 1918, superseding all prior regulations inconsistent herewith.

WOODBROW WILSON.

The fact that manufacture of a malt beverage is prohibited will not relieve the producer from liability to tax. (T. D. 2841.)

Instructions as to procedure in securing permits and giving bonds for sale and use of distilled spirits and wines for other than beverage purposes, including wines for sacramental purposes. (T. Ds. 2940, 2946.)

Use of food
products in
manufacture
of malt liquor.

SEC. 1. [*Act of November 21, 1918 (40 Stat., 1046)*—*Extract.*] After May first, nineteen hundred and nineteen, until the conclusion of the present war and thereafter until the termination of demobilization, the date of which shall be determined and proclaimed by the President of the United States, no grains, cereals, fruit or other food product shall be used in the manufacture or production of beer * or other intoxicating malt * liquor for beverage purposes. After June thirtieth, nineteen hundred and nineteen, until the conclusion of the present war and thereafter until the termination of demobilization, the date of which shall be determined and proclaimed by the President of the United States, no beer * or other intoxicating malt * liquor shall be sold for beverage purposes except for export. After the approval of this Act no * malt * or other intoxicating liquors shall be imported into the United States during the continuance of the present war and period of demobilization: *Provided*, That this provision against importation shall not apply to shipments en route to the United States at the time of the passage of this Act.

Penalty.

Any person who violates any of the foregoing provisions shall be punished by imprisonment not exceeding one year, or by fine not exceeding \$1,000, or by both such

imprisonment and fine: *Provided*, That the President of the United States be, and hereby is, authorized and empowered, at any time after the passage of this Act, to establish zones of such size as he may deem advisable about coal mines, munition factories, shipbuilding plants, and such other plants for war material as may seem to him to require such action whenever in his opinion the creation of such zones is necessary to, or advisable in, the proper prosecution of the war, and that he is hereby authorized and empowered to prohibit the sale, manufacture, or distribution of intoxicating liquors in such zones, and that any violation of the President's regulations in this regard shall be punished by imprisonment for not more than one year, or by fine of not more than \$1,000, or by both such fine and imprisonment: *Provided further*, That nothing in this Act shall be construed to interfere with the power conferred upon the President by section fifteen of the food-control Act, approved August tenth, nineteen hundred and seventeen (Public Numbered Forty, Sixty-fifth Congress).

The fact that manufacture of a malt beverage is prohibited will not relieve the producer from liability to tax. (T. D. 2841.)

The act of November 21, 1918, is not in violation of the fifth amendment to the Constitution, is not void by reason of passing of the war emergency, was not repealed by the adoption of the eighteenth amendment to the Constitution, and did not expire by limitation in that the war is at an end, the President not having determined and proclaimed the date of termination of demobilization. (*Hamilton v. Kentucky Distilleries & Warehouse Co.*; *Dryfoos v. Edwards*. Decided by United States Supreme Court December 15, 1919, but not yet officially reported.)

Instructions as to procedure in securing permits and giving bonds for sale and use of distilled spirits and wines for other than beverage purposes, including wines for sacramental purposes. (T. Ds. 2940, 2946.)

Indictment charging violation of this section by manufacture of malt liquor having alcoholic content of one-half of one per cent or more, but not alleging same to be intoxicating, is subject to demurrer. (*United States v. Standard Brewery*, 260 Fed., 486.)

Congress has constitutional power to prohibit manufacture and sale of intoxicating liquors during war. (*United States v. Baumgartner*, 259 Fed., 722.)

This act is constitutional. (*United States v. Ranier Brewing Co.*, 259 Fed., 359.)

This section, whether construed to prohibit manufacture of any beer or wine, or only such as is intoxicating, is constitutional. (*Jacob Hoffman Brewing Co. v. McElligott*, 259 Fed., 321.)

This act does not prohibit manufacture or sale of beer which is not intoxicating. (*United States v. Petts*, 260 Fed., 663.)

Ruling on demurrer to information charging violation of this act by manufacturer of beer for beverage purposes, where purpose was to obtain construction of statute and ruling as to whether particular beverage was within this prohibition. (*United States v. Bergner & Engel Brewing Co.*, 260 Fed., 764.)

Vehicle or animal committed by owner to possession of third person, who uses it in removal of goods or commodities to defraud United States of tax imposed thereon, is subject to forfeiture though owner had no knowledge of illegal use. (*Logan v. United States*, 260 Fed., 746.)

Act held constitutional, as within war powers of Congress in dealing with conditions growing out of termination of hostilities and demobilization of army. (*Scatina v. Caffey*, 260 Fed., 756.)

Information charging violation of this act need not aver that beer alleged to have been manufactured or sold was intoxicating. (*United States v. Pittsburgh Brewing Co.*, 260 Fed., 762.)

This act does not violate tenth amendment to Federal Constitution. (*United States v. Minery*, 259 Fed., 707.)

Eighteenth amendment to the Federal Constitution does not invalidate act of November 21, 1918, upon ground that prohibition legislation is precluded until 1920. (*Id.*)

This act is applicable to sale on July 8, 1919, since no treaty had then been signed with Austria and the army had not been entirely demobilized. (*Id.*)

This act prevents only the manufacture and sale of beer, wine, etc., which are in fact intoxicating. (*Jacob Hoffman Brewing Co. v. McElligott*, 259 Fed., 525; *United States v. Baumgartner*, 259 Fed., 722.)

Advertisements
in certain States.

SEC. 5. [*Act of March 3, 1917 (39 Stat., 1069).*] No letter, postal card, circular, newspaper, pamphlet, or publication of any kind containing any advertisement of spirituous, vinous, malted, fermented, or other intoxicating liquors of any kind, or containing a solicitation of an order or orders for said liquors, or any of them, shall be deposited in or carried by the mails of the United States, or be delivered by any postmaster or letter carrier, when addressed or directed to any person, firm, corporation, or association, or other addressee, at any place or point in any State or Territory of the United States at which it is by the law in force in the State or Territory at that time unlawful to advertise or solicit orders for such liquors, or any of them respectively.

If the publisher of any newspaper or other publication or the agent of such publisher, or if any dealer in such liquors or his agent, shall knowingly deposit or cause to be deposited, or shall knowingly send or cause to be sent, anything to be conveyed or delivered by mail in violation of the provisions of this section, or shall knowingly deliver or cause to be delivered by mail anything herein forbidden to be carried by mail, shall be fined not more than \$1,000 or imprisoned not more than six months, or both; and for any subsequent offense shall be imprisoned not more than one year. Any person violating any provision of this section may be tried and punished, either in the district in which the unlawful matter or publication was mailed or to which it was carried by mail for delivery, according to direction thereon, or in which it was caused to be delivered by mail to the person to whom it was addressed. Whoever shall order, purchase, or cause intoxicating liquors to be transported in interstate commerce, except for scientific, sacramental, medicinal,

Shipments into
State prohibi-
ting sale.

and mechanical purposes, into any State or Territory the laws of which State or Territory prohibit the manufacture or sale therein of intoxicating liquors for beverage purposes shall be punished as aforesaid: *Provided*, That nothing herein shall authorize the shipment of liquor into any State contrary to the laws of such State: *Provided further*, That the Postmaster General is hereby authorized and directed to make public from time to time in suitable bulletins or public notices the names of States in which it is unlawful to advertise or solicit orders for such liquors.

By act of March 4, 1917 (39 Stat., 1202), it was provided that the provisions of this section should not be in effect until July 1, 1917.

Section 1110 of the act of October 3, 1917 (40 Stat., 300), provided that the above section should not be construed to apply to ethyl alcohol for governmental, scientific, medicinal, mechanical, manufacturing, and industrial purposes, nor should said section be held to prohibit the use of the mails by regularly ordained ministers of religion or by officers of regularly established churches, for ordering wines for sacramental uses, or by manufacturers and dealers for quoting and billing such wines for such purposes only.

There may be a conspiracy to violate this section by transporting liquor into a prohibition State, indictable under Criminal Code, section 37. (*Laughter v. United States*, 259 Fed., 94.)

To render this section applicable to a State, it must have adopted a general policy of prohibition throughout its territory, but it is not essential that such prohibition should be literally without exception; both the sale and manufacture of liquor for sale as a beverage are prohibited under various statutes of Tennessee throughout the State, and transportation of liquor into State for beverage purposes is in violation of this section. (*Id.*)

CHAPTER SIX.

WINES AND OTHER BEVERAGES.

Sec.	Sec.
3328. Tax on imitation of wines, how paid.	611. (Same). Still wines, including vermouth, etc.
42. Act of October 1, 1890, as amended. Wine spirits used free of tax.	612. (Same). Withdrawal of brandy or wine spirits for use in fortifying wines.
43. (Same). Wine spirits defined; use of water; alcoholic strength.	613. (Same). Tax on champagne, etc.
44. (Same). (Superseded.)	614. (Same). Floor tax.
45. (Same). Transfer in bond and use of wine spirits for fortifying sweet wines.	615. (Same). Sweet wine; floor tax.
46. (Same). Withdrawal of spirits to fortify wines intended for export.	616. (Same). Payment of tax by stamp; wines for family use.
47. (Same). Reimportation.	618. (Same). Removal of domestic wines from bonded premises; wine used as distilling material.
48. (Same). Penalty for using spirits in fortifying wines contrary to law.	619. (Same). Collection of tax on imported wines.
49. (Same). (Superseded.)	620. (Same). Penalty for evading tax or any requirement of law or regulations.
15. Act of August 10, 1917. Restrictions on use of food materials.	621. (Same). Spirit meters, locks, and seals; assignment and compensation of gaugers, etc.
1. Act of November 21, 1918. Use of food materials in manufacture of wine; penalty.	622. (Same). Allowance for unavoidable loss of wine.
5. Act of March 3, 1917. Advertisements in certain States; shipments into States prohibiting sale.	628. (Same). Tax on beverages derived from cereals, etc., mineral waters, etc.
600(b). Act of February 24, 1919. Imported wines in customs bonded warehouse.	629. (Same). Returns and payment of tax; penalty.
605. (Same). Additional tax; gin; floor tax; exemptions; regulations.	630. (Same). Soft drinks mixed at soda fountain, etc.
610. (Same). Natural wine defined; use of sugar solution; sweet wines.	5. Act of June 7, 1906. Remission of tax on grape brandy accidentally destroyed.

SEC. 3328. On all wines, liquors, or compounds known or denominated as wine, and made in imitation of sparkling wine or champagne, but not made from grapes grown in the United States, and on all liquors, not made from grapes, currants, rhubarb, or berries grown in the United States, but produced by being rectified or mixed with distilled spirits or by the infusion of any matter in spirits, to be sold as wine, or as a substitute for wine, there shall be levied and collected a tax of ten cents per bottle or package containing not more than one pint, or of twenty cents per bottle or package containing more than one pint and not more than one quart, and at the

same rate for any larger quantity of such merchandise, however the same may be put up, or whatever may be the package. The Commissioner of Internal Revenue shall cause to be prepared suitable and special stamps denoting the tax herein imposed, to be affixed to each bottle or package containing such merchandise, by the person manufacturing, compounding, or putting up the same, before removal from the place of manufacture, compounding, or putting up; and said stamps shall be affixed and canceled in such manner as the Commissioner may prescribe; and the absence of such stamp from any bottle or package containing such merchandise shall be prima facie evidence that the tax thereon has not been paid, and such merchandise shall be forfeited to the United States.

Any person counterfeiting, altering, or reusing said stamps shall be subject to the same penalties as are imposed for the same offenses in relation to proprietary stamps.

This section has not been specifically repealed but is regarded as obsolete, having been apparently superseded by subsequent legislation.

See section 3429, page 553, for penalties for counterfeiting, etc., proprietary stamps.

Article here held none the less free from tax, as being "made from grapes grown in the United States," notwithstanding carbonic acid gas was injected by a separate process of manufacture. (*United States v. Wines of Blum*, 6 Ben., 493; 17 Int. Rev. Rec., 181.)

GRAPE BRANDY USED FOR THE FORTIFICATION OF WINE.

Wine spirits
may be used free
of tax.

SEC. 42. [*Act of October 1, 1890 (26 Stat., 621), as amended by sec. 2 of act of October 22, 1914 (38 Stat., 745), as amended by sec. 617 of act of February 24, 1919 (40 Stat., 1057).*] That any producer of pure sweet wines may use in the preparation of such sweet wines, under such regulations and after the filing of such notices and bonds, together with the keeping of such records and the rendition of such reports as to materials and products as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe, wine spirits produced by any duly authorized distiller, and the Commissioner of Internal Revenue, in determining the liability of any distiller of wine spirits to assessment under section 3309 of the Revised Statutes, is authorized to allow such distiller credit in his computations for the wine spirits withdrawn to be used in fortifying sweet wines under this Act.

Wine spirits
defined.

SEC. 43. [*Act of October 1, 1890 (26 Stat., 621), as amended by sec. 2 of act of October 22, 1914 (38 Stat., 745), as amended by sec. 617 of act of February 24, 1919 (40 Stat., 1057).*] That the wine spirits mentioned in section 42 is the product resulting from the distillation of fermented grape juice, to which water may have been added prior to, during, or after fermentation, for the

sole purpose of facilitating the fermentation and economical distillation thereof, and shall be held to include the product from grapes or their residues commonly known as grape brandy, and shall include commercial grape brandy which may have been colored with burnt sugar or caramel; and the pure sweet wine which may be fortified with wine spirits under the provisions of this Act is fermented or partially fermented grape juice only, with the usual cellar treatment, and shall contain no other substance whatever introduced before, at the time of, or after fermentation, except as herein expressly provided: *Provided*, That the addition of pure boiled or condensed grape must or pure crystallized cane or beet sugar, or pure dextrose sugar containing, respectively, not less than 95 per centum of actual sugar, calculated on a dry basis, or water, or any or all of them, to the pure grape juice before fermentation, or to the fermented product of such grape juice, or to both, prior to the fortification herein provided for, either for the purpose of perfecting sweet wines according to commercial standards or for mechanical purposes, shall not be excluded by the definition of pure sweet wine aforesaid: *Provided, however*, That the cane or beet sugar, or pure dextrose sugar added for sweetening purposes shall not be in excess of 11 per centum of the weight of the wine to be fortified: *And provided further*, That the addition of water herein authorized shall be under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may from time to time prescribe: *Provided, however*, That records kept in accordance with such regulations as to the percentage of saccharine, acid, alcoholic, and added water content of the wine offered for fortification shall be open to inspection by any official of the Department of Agriculture thereto duly authorized by the Secretary of Agriculture; but in no case shall such wines to which water has been added be eligible for fortification under the provisions of this Act, where the same, after fermentation and before fortification, have an alcoholic strength of less than 5 per centum of their volume.

When water
may be used.

Alcoholic
strength when
water has been
used.

SEC. 44. [*Act of October 1, 1890 (26 Stat., 621).*]

Superseded by section 620, act of February 24, 1919 (40 Stat., 1057).

SEC. 45. [*Act of October 1, 1890 (26 Stat., 621), as amended by sec. 2 of act of October 22, 1914 (38 Stat., 745), as amended by sec. 617 of act of February 24, 1919 (40 Stat., 1057).*] That under such regulations and official supervision, and upon the execution of such entries and the giving of such bonds, bills of lading, and other security as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe, any producer of pure sweet wines as defined by this Act may withdraw wine spirits from any special

Transfers in
bond and use of
wine spirits for
fortifying sweet
wines.

bonded warehouse in original packages or from any registered distillery in any quantity not less than eighty wine gallons, and may use so much of the same as may be required by him under such regulations, and after the filing of such notices and bonds and the keeping of such records and the rendition of such reports as to materials and products and the disposition of the same as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe, in fortifying the pure sweet wines made by him, and for no other purpose, in accordance with the foregoing limitations and provisions; and the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is authorized whenever he shall deem it to be necessary for the prevention of violations of this law to prescribe that wine spirits withdrawn under this section shall not be used to fortify wines except at a certain distance prescribed by him from any distillery, rectifying house, winery, or other establishment used for producing or storing distilled spirits, or for making or storing wines other than wines which are so fortified, and that in the building in which such fortification of wines is practiced no wines or spirits other than those permitted by this regulation shall be stored in any room or part of the building in which fortification of wines is practiced. The use of wine spirits for the fortification of sweet wines under this Act shall be under the immediate supervision of an officer of internal revenue, who shall make returns describing the kinds and quantities of wine so fortified, and shall affix such stamps and seals to the packages containing such wines as may be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury; and the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall provide by regulations the time within which wines so fortified with the wine spirits so withdrawn may be subject to inspection, and for final accounting for the use of such wine spirits and for rewarehousing or for payment of the tax on any portion of such wine spirits which remain not used in fortifying pure sweet wines.

Location of premises where wines may be fortified.

Supervision of fortification of wines.

Withdrawal of spirits to fortify wines intended for export.

SEC. 46. [Act of October 1, 1890 (26 Stat., 621).] That wine-spirits may be withdrawn from special bonded warehouses at the instance of any person desiring to use the same to fortify any wines, in accordance with commercial demands of foreign markets, when such wines are intended for exportation, without the payment of tax on the amount of wine spirits used in such fortification, under such regulations, and after making such entries, and executing and filing with the collector of the district from which the removal is to be made such bonds and bills of lading, and giving such other additional security to prevent the use of such wine-spirits

free of tax otherwise than in the fortification of wine intended for exportation, and for the due exportation of the wine so fortified, as may be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury; and all of the provisions of law governing the exportation of distilled spirits free of tax, so far as applicable, shall apply to the withdrawal and use of wine-spirits and the exportation of the same in accordance with this section; and the Commissioner of Internal Revenue is authorized, subject to approval by the Secretary of the Treasury, to prescribe that wine spirits intended for the fortification of wines under this section shall not be introduced into such wines except under the immediate supervision of an officer of internal revenue, who shall make returns describing the kinds and quantities of wine so fortified, and shall affix such stamps and seals to the packages containing such wines as may be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Whenever such wine-spirits are withdrawn as provided herein for the fortification of wines intended for exportation by sea they shall be introduced into such wines only after removal from storage and arrival alongside of the vessel which is to transport the same; and whenever transportation of such wines is to be effected by land carriage the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe such regulations as to sealing packages and vehicles containing the same, and as to the supervision of transportation from the point of departure, which point shall be determined as the place where such wine-spirits may be introduced into such wines to the point of destination as may be necessary to insure the due exportation of such fortified wines.

The above section was amended by act of October 22, 1914, section 24 of which provided that the taxes levied under the act were to be no longer levied and collected after December 31, 1915. This limitation was extended to December 31, 1916, by Resolution of December 17, 1915. Act of September 8, 1916, expressly repealed the act of October 22, 1914, with certain exceptions, and the Resolution of December 17, 1915; and the act of September 8, 1916, was expressly repealed by act of February 24, 1919.

Provisions of Regulations 29, governing the exportation of distilled spirits, extended to withdrawal of brandy for use in fortifying wines for export, and to the exportation of such fortified wines. (T. D. 1663.)

SEC. 47. [*Act of October 1, 1890 (26 Stat., 623).*] That all provisions of law relating to the re-importation of any goods of domestic growth or manufacture which were originally liable to an internal-revenue tax shall be, as far as applicable, enforced against any domestic wines sought to be re-imported; and duty shall be levied

Reimportation.

and collected upon the same when re-imported, as an original importation.

This section was not expressly repealed, but is covered by Par. P, Section IV, act of October 3, 1913 (38 Stat., 201), reading as follows: "That upon the reimportation of articles once exported, of the growth, product, or manufacture of the United States, upon which no internal tax has been assessed or paid, or upon which such tax has been paid and refunded by allowance or drawback, there shall be levied, collected, and paid a duty equal to the tax imposed by the internal-revenue laws upon such articles, except articles manufactured in bonded warehouses and exported pursuant to law, which shall be subject to the same rate of duty as if originally imported, but proof of the identity of such articles shall be made under general regulations to be prescribed by the Secretary of the Treasury."

Penalty for
using spirits in
fortifying wines
contrary to law.

SEC. 48. [*Act of October 1, 1890 (26 Stat., 623).*] That any person using wine spirits or other spirits which have not been tax-paid in fortifying wine otherwise than as provided for in this act, shall be guilty of a misdemeanor, and shall, on conviction thereof, be punished for each offense by a fine of not more than two thousand dollars, and for every offense other than the first also by imprisonment for not more than one year.

Superseded by section 620, act of February 24, 1919, as far as violations of such act are concerned.

SEC. 49. [*Act of October 1, 1890 (26 Stat., 623), as amended by sec. 2, act of June 7, 1906 (34 Stat., 215).*]

Superseded by section 618 (a), act of February 24, 1919.

Restrictions on
use of food ma-
terials.

SEC. 15. [*Act of August 10, 1917 (40 Stat., 276).*] That from and after thirty days from the date of the approval of this act no foods, fruits, food materials, or feeds shall be used in the production of distilled spirits for beverage purposes: *Provided*, That, under such rules, regulations, and bonds as the President may prescribe, such materials may be used in the production of distilled spirits exclusively for other than beverage purposes, or for the fortification of pure sweet wines as defined by the act entitled "An act to increase the revenue, and for other purposes," approved September eighth, nineteen hundred and sixteen. Nor shall there be imported into the United States any distilled spirits. Whenever the President shall find that limitation, regulation, or prohibition of the use of foods, fruits, food materials, or feeds in the production of malt or vinous liquors for beverage purposes, or that reduction of the alcoholic content of any such malt or vinous liquor is essential in order to assure an adequate and continuous supply of food, or that the national security and defense will be subserved thereby, he is authorized, from time to time, to prescribe and give public notice of the extent of the limitation, regulation, prohibition, or reduction so necessitated. Whenever such notice shall have been given and shall remain unrevoked no person shall, after a reasonable time prescribed in such

notice, use any foods, fruits, food materials, or feeds in the production of malt or vinous liquors, or import any such liquors except under license issued by the President and in compliance with rules and regulations determined by him governing the production and importation of such liquors and the alcoholic content thereof. Any person who willfully violates the provisions of this section, or who shall use any foods, fruits, food materials, or feeds in the production of malt or vinous liquors, or who shall import any such liquors, without first obtaining a license so to do when a license is required under this section, or who shall violate any rule or regulation made under this section, shall be punished by a fine not exceeding \$5,000 or by imprisonment for not more than two years, or both: *Provided further*, That nothing in this section shall be construed to authorize the licensing of the manufacture of vinous or malt liquors in any State, Territory, or the District of Columbia, or any civil subdivision thereof, where the manufacture of such vinous or malt liquor is prohibited.

Penalty.

A PROCLAMATION.

Whereas, under and by virtue of an act of Congress entitled "An act to provide further for the national security and defense by encouraging the production, conserving the supply, and controlling the distribution of food products and fuel," approved by the President on August 10, 1917, it is provided in section 15, among other things, as follows:

"Whenever the President shall find that limitation, regulation, or prohibition of the use of foods, fruits, food materials, or feeds in the production of malt or vinous liquors for beverage purposes, or that reduction of the alcoholic content of any such malt or vinous liquor, is essential, in order to assure an adequate and continuous supply of food, or that the national security and defense will be subserved thereby, he is authorized, from time to time, to prescribe and give public notice of the extent of the limitation, regulation, prohibition, or reduction so necessitated. Whenever such notice shall have been given and shall remain unrevoked, no person shall, after a reasonable time prescribed in such notice, use any foods, fruits, food materials, or feeds in the production of malt or vinous liquors, or import any such liquors except under license issued by the President and in compliance with rules and regulations determined by him governing the production and importation of such liquors and the alcoholic content thereof."

Now, therefore, I, Woodrow Wilson, President of the United States of America, by virtue of the powers conferred on me by said act of Congress, do hereby find and determine that it is essential, in order to assure an adequate and continuous supply of food, in order to subserve the national security and defense, and because of the increasing requirements of war industries for the fuel productive capacity of the country, the strain upon transportation to serve such industries, and the shortage of labor caused by the necessity of increasing the armed forces of the United States, that the use of sugar, glucose, corn, rice, or any other foods, fruits, food materials and feeds in the production of malt liquors, including near beer, for beverage purposes, be prohibited. And by this proclamation I prescribe and give public notice that on and after October 1, 1918,

WINES AND OTHER BEVERAGES.

no person shall use any sugar, glucose, corn, rice, or any other foods, fruits, food materials, or feeds, except hops and malt now already made, in the production of malt liquors, including near beer, for beverage purposes, whether or not such malt liquors contain alcohol, and on and after December 1, 1918, no person shall use any sugar, glucose, corn, rice, or any other foods, fruits, food materials, or feeds, including malt, in the production of malt liquors, including near beer, for beverage purposes, whether or not such malt liquors contain alcohol.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done in the District of Columbia, this 16th day of September in the year of our Lord One Thousand Nine Hundred and Eighteen, and of the Independence of the United States of America the One Hundred and Forty-third.

WOODROW WILSON.

By the President:

ROBERT LANSING,

Secretary of State.

RULES AND REGULATIONS GOVERNING THE PRODUCTION OF MALT LIQUORS AND THE ALCOHOLIC CONTENTS THEREOF.

"Promulgated by the President under the authority of section 15, of the act of Congress, approved August 10, 1917, entitled 'An act to provide further for the national security and defense by encouraging the production, conserving the supply, and controlling the distribution of food products and fuel,' and in accordance with proclamations concerning malt liquor, issued December 8, 1917, and September 16, 1918.

Rule 1. During the period from October 1, 1918, to December 1, 1918, only malt and hops shall be used in the production of any malt liquor, provided that any dextrinous or other syrups which have been specially prepared for the manufacture of near-beer and which are in the licensee's possession or shipped to him prior to October 1, 1918, may be used in the manufacture of such near-beer.

Rule 2. The limitations on quantity of malt and hops used in the manufacture of beer or near-beer, contained in the proclamation of December 8, 1917, shall not apply during the period from October 1, 1918, to December 1, 1918, but nothing in this rule shall be construed to modify in any way the limitation on alcoholic content of malt liquor prescribed by said proclamation of December 8, 1917.

Rule 3. No person shall import any malt liquor for beverage purposes on and after December 1, 1918.

Rule 4. The prohibitions contained in the proclamation of September 16, 1918, shall not apply to material actually in process of manufacture prior to the dates named in said proclamation, but the fact that material is on hand in the brewery or factory shall not authorize any exception to be made other than that referred to in Rule 1.

The foregoing regulations are approved on this 30th day of September, 1918, superseding all prior regulations inconsistent herewith."

WOODROW WILSON.

Instructions as to sale and use of wines for other than beverage purposes under the food control act of August 10, 1917. (T. D. 2788.) Modified by T. D. 2854; also by T. D. 2912 as to wines for sacramental purposes. Alternative form of application for sacramental wines set forth in T. D. 2888.

Procedure in securing permits and giving bonds for sale and use of distilled spirits and wines for other than beverage purposes.

age purposes, including wines for sacramental purposes. (T. Ds. 2940, 2946.)

Production of wines containing more than 24 per cent of absolute alcohol by volume for beverage purposes prohibited. (T. D. 2748.)

SEC. 1. [*Act of November 21, 1918 (40 Stat., 1046)*—*Extract.*] After May first, nineteen hundred and nineteen, until the conclusion of the present war and thereafter until the termination of demobilization, the date of which shall be determined and proclaimed by the President of the United States, no grains, cereals, fruit, or other food product shall be used in the manufacture or production of * wine, or other intoxicating * vinous liquor for beverage purposes. After June thirtieth, nineteen hundred and nineteen, until the conclusion of the present war and thereafter until the termination of demobilization, the date of which shall be determined and proclaimed by the President of the United States, no * wine, or other intoxicating * vinous liquor shall be sold for beverage purposes except for export. The Commissioner of Internal Revenue is hereby authorized and directed to prescribe rules and regulations, subject to the approval of the Secretary of the Treasury, in regard * * * to the manufacture, sale, and distribution of wine for sacramental, medicinal, or other than beverage uses. After the approval of this Act no * vinous, or other intoxicating liquors shall be imported into the United States during the continuance of the present war and period of demobilization: *Provided*, That this provision against importation shall not apply to shipments en route to the United States at the time of the passage of this Act.

Use of food products in manufacture of wine.

Any person who violates any of the foregoing provisions shall be punished by imprisonment not exceeding one year, or by fine not exceeding \$1,000, or by both such imprisonment and fine: *Provided*, That the President of the United States be, and hereby is, authorized and empowered, at any time after the passage of this Act, to establish zones of such size as he may deem advisable about coal mines, munition factories, shipbuilding plants, and such other plants for war material as may seem to him to require such action whenever in his opinion the creation of such zones is necessary to, or advisable in, the proper prosecution of the war, and that he is hereby authorized and empowered to prohibit the sale, manufacture, or distribution of intoxicating liquors in such zones, and that any violation of the President's regulations in this regard shall be punished by imprisonment for not more than one year, or by fine of not more than \$1,000, or by both such fine and imprisonment: *Provided further*, That nothing in this Act shall be construed to interfere with the power conferred upon the President by section fifteen of the food-control Act, approved August tenth, nineteen hun-

Penalty.

dred and seventeen (Public Numbered Forty, Sixty-fifth Congress).

Regulations relative to export of distilled spirits and wines, and use of wines or liquors for medicinal, sacramental, or nonbeverage purposes. (T. Ds. 2881, 2959.)

The act of November 21, 1918, is not in violation of the fifth amendment to the Constitution, is not void by reason of the passing of the war emergency, was not repealed by the adoption of the eighteenth amendment to the Constitution, and did not expire by limitation in that the war is at an end, the President not having determined and proclaimed the date of termination of demobilization. (*Hamilton v. Kentucky Distilleries & Warehouse Co.*; *Dryfoos v. Edwards*. Decided by United States Supreme Court December 15, 1919, but not yet officially reported.)

Use of nonbeverage distilled spirits or alcohol in filling physicians' prescriptions; T. D. 2881 modified. (T. D. 2934.)

Procedure in securing permits and giving bonds for sale and use of wines for other than beverage purposes, including wines for sacramental purposes. (T. Ds. 2940, 2946.)

Indictment charging violation of this section by manufacture of malt liquor having alcoholic content of one-half of one per cent or more, but not alleging same to be intoxicating, is subject to demurrer. (*United States v. Standard Brewery*, 260 Fed., 486.)

Congress has constitutional power to prohibit manufacture and sale of intoxicating liquors during war. (*United States v. Baumgartner*, 259 Fed., 722.)

This act is constitutional. (*United States v. Ranier Brewing Co.*, 259 Fed., 359.)

This section, whether construed to prohibit manufacture of any beer or wine, or only such as is intoxicating, is constitutional. (*Jacob Hoffman Brewing Co. v. McElligott*, 259 Fed., 321.)

This act does not prohibit manufacture or sale of beer which is not intoxicating. (*United States v. Petts*, 260 Fed., 663.)

Ruling on demurrer to information charging violation of this act by manufacturer of beer for beverage purposes, where purpose was to obtain construction of statute and ruling as to whether particular beverage was within this prohibition. (*United States v. Bergner & Engel Brewing Co.*, 260 Fed., 764.)

Vehicle or animal committed by owner to possession of third person, who uses it in removal of goods or commodities to defraud United States of tax imposed thereon, is subject to forfeiture though owner had no knowledge of illegal use. (*Logan v. United States*, 260 Fed., 746.)

Act held constitutional, as within war powers of Congress in dealing with conditions growing out of termination of hostilities and demobilization of army. (*Scutina v. Caffey*, 260 Fed., 756.)

Information charging violation of this act need not aver that beer alleged to have been manufactured or sold was intoxicating. (*United States v. Pittsburgh Brewing Co.*, 260 Fed., 762.)

This act does not violate tenth amendment to Federal Constitution. (*United States v. Minery*, 259 Fed., 707.)

Eighteenth amendment to the Federal Constitution does not invalidate act of November 21, 1918, upon ground that prohibition legislation is precluded until 1920. (Id.)

This act is applicable to sale on July 8, 1919, since no treaty had then been signed with Austria and the army had not been entirely demobilized. (Id.)

This act prevents only the manufacture and sale of beer, wine, etc., which are in fact intoxicating. (Jacob Hoffman Brewing Co. v. McElligott, 259 Fed., 525; United States v. Baumgartner, 259 Fed. 722.)

SEC. 5. [*Act of March 3, 1917 (39 Stat., 1069).*] No letter, postal card, circular, newspaper, pamphlet, or publication of any kind containing any advertisement of spirituous, vinous, malted, fermented, or other intoxicating liquors of any kind, or containing a solicitation of an order or orders for said liquors, or any of them, shall be deposited in or carried by the mails of the United States, or be delivered by any postmaster or letter carrier, when addressed or directed to any person, firm, corporation, or association, or other addressee, at any place or point in any State or Territory of the United States at which it is by the law in force in the State or Territory at that time unlawful to advertise or solicit orders for such liquors, or any of them respectively.

Advertisements
in certain States.

If the publisher of any newspaper or other publication or the agent of such publisher, or if any dealer in such liquors or his agent, shall knowingly deposit or cause to be deposited, or shall knowingly send or cause to be sent, anything to be conveyed or delivered by mail in violation of the provisions of this section, or shall knowingly deliver or cause to be delivered by mail anything herein forbidden to be carried by mail, shall be fined not more than \$1,000 or imprisoned not more than six months, or both; and for any subsequent offense shall be imprisoned not more than one year. Any person violating any provision of this section may be tried and punished, either in the district in which the unlawful matter or publication was mailed or to which it was carried by mail for delivery, according to direction thereon, or in which it was caused to be delivered by mail to the person to whom it was addressed. Whoever shall order, purchase, or cause intoxicating liquors to be transported in interstate commerce, except for scientific, sacramental, medicinal, and mechanical purposes, into any State or Territory the laws of which State or Territory prohibit the manufacture or sale therein of intoxicating liquors for beverage purposes shall be punished as aforesaid: *Provided*, That nothing herein shall authorize the shipment of liquor into any State contrary to the laws of such State: *Provided further*, That the Postmaster General is hereby authorized and directed to make public from time to time in suitable bulletins or public notices the names of States in which it is unlawful to advertise or solicit orders for such liquors.

Shipments into
State prohibiting
sale.

By act of March 4, 1917 (39 Stat., 1202), it was provided that the provisions of this section should not be in effect until July 1, 1917.

Section 1110 of the act of October 3, 1917 (40 Stat., 329), provided that the above section should not be construed to

apply to ethyl alcohol for governmental, scientific, medicinal, mechanical, manufacturing, and industrial purposes, nor should said section be held to prohibit the use of the mails by regularly ordained ministers of religion or by officers of regularly established churches, for ordering wines for sacramental uses, or by manufacturers and dealers for quoting and billing such wines for such purposes only.

There may be a conspiracy to violate this section by transporting liquor into a prohibition State, indictable under Criminal Code, section 37. (Laughter v. United States, 259 Fed., 94.)

To render this section applicable to a State, it must have adopted a general policy of prohibition throughout its territory, but it is not essential that such prohibition should be literally without exception; both the sale and manufacture of liquor for sale as a beverage are prohibited under various statutes of Tennessee throughout the State, and transportation of liquor into State for beverage purposes is in violation of this section. (Id.)

Imported
wines in cus-
toms bonded
warehouse.

SEC. 600 (b). [*Act of February 24, 1919 (40 Stat., 1057).*—*Extract.*] Under regulations prescribed by the Secretary, any imported distilled spirits, wines or other liquors which may be in any customs bonded warehouse under the customs laws on the date such prohibition takes effect shall be permitted to remain therein without payment of any taxes or duties thereon, beyond the three-year period provided in section 2971 of the Revised Statutes, during such period of prohibition; and may be exported at any time during such extended period. Any imported spirits, wines or other liquors as to which the three-year bonded period may expire after the passage of this Act and prior to the date such prohibition takes effect may at the option of the owner remain in bond during such period of prohibition.

Additional
tax.

SEC. 605. [*Act of February 24, 1919 (40 Stat., 1057).*] That in addition to the tax imposed by this Act on distilled spirits and wines, there shall be levied, assessed, collected, and paid, in lieu of the tax imposed by section 304 of the Revenue Act of 1917, a tax of 30 cents on each proof gallon and a proportionate tax at a like rate on all fractional parts of such proof gallon on all distilled spirits or wines hereafter rectified, purified, or refined in such manner, and on all mixtures hereafter produced in such manner, that the person so rectifying, purifying, refining, or mixing the same is a rectifier within the meaning of section 3244 of the Revised Statutes, as amended: *Provided*, That this tax shall not apply to gin produced by the redistillation of a pure spirit over juniper berries and other aromatics.

Gin.

Floor tax.

Upon all such articles heretofore produced, and which on the day after the passage of this Act are held by any person and intended for sale, there shall be levied, assessed, collected, and paid a floor tax of 15 cents on each proof gallon, and a proportionate tax at a like rate on all fractional parts of each proof gallon: and all such

distilled spirits so held and not contained in the distillers' original stamped packages, or in bottles or other containers bearing the distillers' original labels, shall for the purpose of this section be regarded as rectified spirits.

When the process of rectification is completed and the taxes prescribed by this section have been paid, it shall be unlawful for the rectifier or other dealer to reduce in proof or increase in volume such spirits or wine by the addition of water or other substance; nothing herein contained shall, however, prevent a rectifier from using again in the process of rectification spirits already rectified and upon which the taxes have theretofore been paid.

Addition of water or other substance.

The taxes imposed by this section shall not attach to cordials or liqueurs on which a tax is imposed and paid under section 611 or 613, nor to the mixing and blending of wines, where such blending is for the sole purpose of perfecting such wines according to commercial standards, nor to blends made exclusively of two or more pure straight whiskies aged in wood for a period not less than four years and without the addition of coloring or flavoring matter or any other substance than pure water and if not reduced below ninety proof: *Provided*, That such blended whiskies shall be exempt from tax under this section only when compounded under the immediate supervision of a revenue officer, in such tanks and under such conditions and supervision as the Commissioner, with the approval of the Secretary, may prescribe.

Exemptions.

All distilled spirits or wines taxable under this section shall be subject to uniform regulations concerning the use thereof in the manufacture, blending, compounding, mixing, marking, branding, and sale of whisky and rectified spirits, and no discrimination whatsoever shall be made by reason of a difference in the character of the material from which same may have been produced.

Uniformity of regulations.

* * * * *

Whoever violates any of the provisions of this section shall be deemed to be guilty of a misdemeanor and, upon conviction, shall be fined not more than \$1,000 or imprisoned not more than two years, and shall, in addition, be liable to double the tax evaded, together with the tax, to be collected by assessment or on any bond given.

Penalty.

Regulations as to floor tax. (T. D. 2801.)

SEC. 610. [Act of February 24, 1919 (40 Stat., 1057).] That natural wine within the meaning of this Act shall be deemed to be the product made from the normal alcoholic fermentation of the juice of sound, ripe grapes, without addition or abstraction, except such as may occur in the usual cellar treatment of clarifying and aging: *Provided, however*, That the product made from the juice of sound, ripe grapes by complete fermentation of the must under proper cellar treatment and corrected by

Natural wine defined.

Sugar solution, use of.

Acid and alcohol, per cent of.

Sweet wines.

the addition (under the supervision of a gauger or store-keeper-gauger in the capacity of gauger) of a solution of water and pure cane, beet, or dextrose sugar (containing, respectively, not less than 95 per centum of actual sugar, calculated on a dry basis) to the must or to the wine, to correct natural deficiencies, when such addition shall not increase the volume of the resultant product more than 35 per centum, and the resultant product does not contain less than five parts per thousand of acid before fermentation and not more than 13 per centum of alcohol after complete fermentation, shall be deemed to be wine within the meaning of this Act, and may be labeled, transported, and sold as "wine," qualified by the name of the locality where produced and may be further qualified by the name of its own particular type or variety: *And provided further*, That wine as defined in this section may be sweetened with cane sugar or beet sugar or pure condensed grape must and fortified under the provisions of this Act, and wines so sweetened or fortified shall be considered sweet wine within the meaning of this Act.

Use of sugar solution in production of wine. (T. Ds. 2469, 2470.)

Still wines, including vermouth and artificial wines.

SEC. 611. [*Act of February 24, 1919 (40 Stat., 1057).*] That upon all still wines, including vermouth, and all artificial or imitation wines or compounds sold as still wine, which are hereafter produced in or imported into the United States, or which on the day after the passage of this act are on any winery premises or other bonded premises or in transit thereto or at any customhouse, there shall be levied, collected, and paid, in lieu of the internal-revenue taxes now imposed thereon by law, taxes at rates as follows, when sold, or removed for consumption or sale:

On wines containing not more than 14 per centum of absolute alcohol, 16 cents per wine gallon, the per centum of alcohol taxable under this section to be reckoned by volume and not by weight;

On wines containing more than 14 per centum and not exceeding 21 per centum of absolute alcohol, 40 cents per wine gallon;

On wines containing more than 21 per centum and not exceeding 24 per centum of absolute alcohol, \$1 per wine gallon;

Taxability as distilled spirits.

All such wines containing more than 24 per centum of absolute alcohol by volume shall be classed as distilled spirits and shall pay tax accordingly.

Honey wine classed as liqueurs, cordials, etc. (T. D. 2296.)

Instructions as to payment of tax on imported wines, cordials, etc. (T. D. 2391.)

Stamps may be affixed to casks or cases of imported wines instead of to customs entry. (T. D. 2414.)

Wine maker responsible for correct determination of alcoholic content of wine. (T. D. 2400.)

Regulations as to floor tax. (T. D. 2801.)

SEC. 612. [*Act of February 24, 1919 (40 Stat., 1057).*] That under such regulations and official supervision and upon the giving of such notices, entries, bonds, and other security as the Commissioner, with the approval of the Secretary, may prescribe, any producer of wines defined under the provisions of this title, may withdraw from any fruit distillery or special bonded warehouse grape brandy, or wine spirits, for the fortification of such wines on the premises where actually made: *Provided*, That there shall be levied and assessed against the producer of such wines a tax (in lieu of the internal-revenue tax now imposed thereon by law) of 60 cents per proof gallon of grape brandy or wine spirits whenever withdrawn and hereafter so used by him in the fortification of such wines during the preceding month, which assessment shall be paid by him within ten months from the date of notice thereof: *Provided further*, That nothing contained in this section shall be construed as exempting any wines, cordials, liqueurs, or similar compounds from the payment of any tax provided for in this title.

Withdrawal of brandy or wine spirits for use in fortifying wines.

SEC. 613. [*Act of February 24, 1919 (40 Stat., 1057).*] That upon the following articles which are hereafter produced in or imported into the United States, or which on the day after the passage of this Act are on any winery premises or other bonded premises or in transit thereto or at any customhouse, there shall be levied, collected, and paid taxes at rates as follows, when sold, or removed for consumption or sale:

Rate of tax on champagnes, etc.

On each bottle or other container of champagne or sparkling wine, 12 cents on each one-half pint or fraction thereof;

On each bottle or other container of artificially carbonated wine, 6 cents on each one-half pint or fraction thereof;

On each bottle or other container of liqueurs, cordials, or similar compounds, by whatever name sold or offered for sale, containing sweet wine fortified with grape brandy, 6 cents on each one-half pint or fraction thereof.

The tax imposed by this section shall, in the case of any article upon which a corresponding internal-revenue tax is now imposed by law, be in lieu of such tax.

Floor tax regulations. (T. D. 2801.)

SEC. 614. [*Act of February 24, 1919 (40 Stat., 1057).*] That upon all articles specified in section 611 or 613 upon which the internal-revenue tax now imposed by law has been paid and which are on the day after the passage of this Act held by any person and intended for sale, there shall be levied, collected, and paid a floor tax

Floor tax.

equal to the difference between the tax imposed by this Act and the tax so paid.

Regulations. (T. D. 2801.)

Sweet wine:
floor tax.

SEC. 615. [*Act of February 24, 1919 (40 Stat., 1057).*] That upon all sweet wines held for sale by the producer thereof upon the day after the passage of this Act there shall be levied, assessed, collected, and paid a floor tax equivalent to 30 cents per proof gallon upon the grape brandy or wine spirits used in the fortification of such wine.

Payment of tax
by stamp.

SEC. 616. [*Act of February 24, 1919 (40 Stat., 1057).*] That the taxes imposed by section 611 or 613 shall be paid by stamp on removal of the wines from the custom-house, winery, or other bonded place of storage for consumption or sale, and every person hereafter producing, or having in his possession or under his control when this title takes effect, any wines subject to the tax imposed in section 611 or 613 shall file such notice, describing the premises on which such wines are produced or stored; shall execute a bond in such form; shall make such inventories under oath; and shall, prior to sale or removal for consumption, affix to each cask or vessel containing such wine such marks, labels, or stamps as the Commissioner, with the approval of the Secretary, may from time to time prescribe; and the premises described in such notice shall, for the purpose of this Act, be regarded as bonded premises. But the provisions of this section, except as to payment of tax and the affixing of the required stamps or labels, shall not apply to wines held by retail dealers, as defined in section 3244 of the Revised Statutes, nor, subject to regulations prescribed by the Commissioner, with the approval of the Secretary, shall the tax imposed by section 611 apply to wines produced for the family use of the duly registered producer thereof and not sold or otherwise removed from the place of manufacture and not exceeding in any case two hundred gallons per year.

Wines for
family use.

Stamping and labelling wines. (T. D. 2667.)

Continuing bonds for wineries and store rooms. (T. D. 2516.)

Regulations as to production of wine in quantities not exceeding one thousand gallons per year. (T. D. 2765.)

Bonds covering bonded wineries and bonded store rooms. (T. D. 2525.)

Removal of
domestic wines
from bonded
premises.

SEC. 618. [*Act of February 24, 1919 (40 Stat., 1057).*] (a) That under such regulations and upon the execution of such notices, entries, bonds, and other security as the Commissioner, with the approval of the Secretary, may prescribe, domestic wines subject to the tax imposed by section 611 may be removed from the winery where produced, free of tax, for storage on other bonded premises or from such premises to other bonded premises (but not

more than one such additional removal shall be allowed), or for exportation from the United States or for use as distilling material at any regularly registered distillery: *Provided, however,* That the distiller using any such wine as material shall, subject to the provisions of section 3309 of the Revised Statutes, as amended, be held to pay the tax on the product of such wines as will include both the alcoholic strength therein produced by fermentation and that obtained from the brandy or wine spirits added to such wines at the time of fortification.

(b) Under regulations prescribed by the Commissioner with the approval of the Secretary, it shall be lawful to produce grape wines on bonded winery premises by the usual method, and to transport and use the same, and like wines heretofore produced and now stored on bonded winery premises, as distilling material for the production of nonbeverage spirits in the production of nonalcoholic wines, containing less than $\frac{1}{2}$ of 1 per centum of alcohol by volume, in any fruit brandy or industrial distillery: *Provided,* That all alcoholic spirits so obtained at any industrial distillery shall be denatured, and all spirits so obtained at any fruit distillery shall be removed and used only for nonbeverage purposes or for denaturation.

Wine used as distilling material.

Regulations relative to exportation of wine free of tax. (T. Ds. 2416, 2505.)

Shipment of tax-paid wines in tank cars. (T. D. 2474.)

Temporary storage of tax-paid wine for bottling or shipment in separate room on bonded premises specially set apart for that purpose. (T. D. 2470.)

Transfer of wine to bonded manufacturing warehouse. (T. D. 2738.)

SEC. 619. [*Act of February 24, 1919 (40 Stat., 1057).*] Collection of tax on imported still wines, including vermouth, and sparkling wines, including champagne, and on imported liqueurs, cordials, and similar compounds, may be made within the discretion of the Commissioner, with the approval of the Secretary, by assessment instead of by stamps.

Collection of tax on imported wines.

SEC. 620. [*Act of February 24, 1919 (40 Stat., 1057).*] That whoever evades or attempts to evade any tax imposed by sections 611 to 615, both inclusive, or any requirement of sections 610 to 621, both inclusive, or regulation issued pursuant thereto, or whoever, otherwise than as provided in such sections, recovers or attempts to recover any spirits from domestic or imported wine, or whoever rectifies, mixes, or compounds with distilled spirits any domestic wines, other than in the manufacture of liqueurs, cordials, or similar compounds, shall, on conviction, be punished for each such offense by a fine of not exceeding \$5,000, or imprisonment for not more than five years, or both, and in addition thereto by a penalty of double the tax evaded, or attempted to

Penalty for evading tax or any requirement of law or regulations.

be evaded, to be assessed and collected in the same manner as taxes are assessed and collected, and all wines, spirits, liqueurs, cordials, or similar compounds as to which such violation occurs shall be forfeited to the United States. But the provisions of this section and the provisions of section 3244 of the Revised Statutes, as amended, relating to rectification, or other internal-revenue laws of the United States, shall not be held to apply to or prohibit the mixing or blending of wines subject to tax under the provisions of sections 611 to 615, both inclusive, with each other or with other wines for the sole purpose of perfecting such wines according to commercial standards: *Provided*, That nothing herein contained shall be construed as prohibiting the use of tax-paid grain or other ethyl alcohol in the fortification of sweet wines as defined in section 610 of this Act and section 43 of the Act entitled "An Act to reduce the revenue and equalize duties on imports, and for other purposes," approved October 1, 1890, as amended by this Act.

Blending or otherwise treating wines for purpose of perfecting them according to commercial standards does not constitute rectification. (T. D. 2470.)

Spirit meters,
locks and seals.

SEC. 621. [*Act of February 24, 1919 (40 Stat., 1057).*]

That the Commissioner, by regulations to be approved by the Secretary, may require the use at each fruit distillery of such spirit meters, and such locks and seals to be affixed to fermenters, tanks, or other vessels and to such pipe connections as may in his judgment be necessary or expedient, and is hereby authorized to assign to any such distillery and to each winery where wines are to be fortified such number of gaugers or store-keeper-gaugers in the capacity of gaugers as may be necessary for the proper supervision of the manufacture of brandy or the making or fortifying of wines subject to tax imposed by this section; and the compensation of such officers shall not exceed \$5 per diem while so assigned, together with their actual and necessary traveling expenses, and also a reasonable allowance for their board bills, to be fixed by the Commissioner, with the approval of the Secretary, but not to exceed \$2.50 per diem for such board bills.

Assignment of
gaugers, etc.

Compensation
of officers.

Allowance for
unavoidable loss
of wine.

SEC. 622. [*Act of February 24, 1919 (40 Stat., 1057).*]

That the Commissioner, with the approval of the Secretary, is hereby authorized to make such allowances for unavoidable loss of wines while on storage or during cellar treatment as in his judgment may be just and proper.

Allowance for loss of wines at bonded wineries not to exceed 8% of quantity of wines produced, and allowance at bonded storerooms not to exceed 84% of quantity removed tax paid. (T. D. 2861.)

SEC. 628. [*Act of February 24, 1919 (40 Stat., 1057).*] That there shall be levied, assessed, collected, and paid in lieu of the taxes imposed by sections 313 and 315 of the Revenue Act of 1917—

(a) Upon all beverages derived wholly or in part from cereals or substitutes therefor, and containing less than one-half of one per centum of alcohol, sold by the manufacturer, producer, or importer, in bottles or other closed containers, a tax equivalent to 15 per centum of the price for which so sold; and upon all unfermented grape juice, ginger ale, root beer, sarsaparilla, pop, artificial mineral waters (carbonated or not carbonated), other carbonated waters or beverages, and other soft drinks, sold by the manufacturer, producer, or importer, in bottles or other closed containers, a tax equivalent to 10 per centum of the price for which so sold; and

Tax on soft drinks, mineral waters, etc.

(b) Upon all natural mineral waters or table waters, sold by the producer, bottler, or importer thereof, in bottles or other closed containers, at over 10 cents per gallon, a tax of 2 cents per gallon.

Regulations 52, relating to tax on soft drinks and other beverages sold in bottles or other closed containers. (T. D. 2838.)

Article 6 of Regulations 52 amended. (T. Ds. 2893, 2908.)

Article 11 of Regulations 52 supplemented. (T. D. 2893.)

Manufacturers, producers, importers and vendors are liable to tax upon all sales of taxable articles made to States or political subdivisions thereof. (T. D. 2897.)

Liability of manufacturer to tax upon sales of bottled fruit juices; article 4 of Regulations No. 52 amended. (T. D. 2832.)

SEC. 629. [*Act of February 24, 1919 (40 Stat., 1057).*] That each manufacturer, producer, bottler, or importer of any of the articles enumerated in section 628 shall make monthly returns under oath in duplicate and pay the taxes imposed in respect to such articles by such section to the collector for the district in which is located the principal place of business, containing such information necessary for the assessment of the tax, and at such times and in such manner as the Commissioner, with the approval of the Secretary, may by regulation prescribe.

Returns and payment of tax.

The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time so fixed for filing the return. If the tax is not paid when due, there shall be added as part of the tax a penalty of 5 per centum, together with interest at the rate of 1 per centum for each full month, from the time when the tax became due.

Penalty for nonpayment of tax.

SEC. 630. [*Act of February 24, 1919 (40 Stat., 1057).*] That on and after May 1, 1919, there shall be levied, assessed, collected, and paid a tax of 1 cent for each 10 cents or fraction thereof of the amount paid to any person conducting a soda fountain, ice-cream parlor, or other similar place of business, for drinks commonly

Tax on soft drinks, mixed at soda fountains, etc.

known as soft drinks, compounded or mixed at such place of business, or for ice cream, ice-cream sodas, sundaes, or other similar articles of food or drink, when any of the above are sold on or after such date for consumption in or in proximity to such place of business. Such tax shall be paid by the purchaser to the vendor at the time of the sale and shall be collected, returned, and paid to the United States by such vendor in the same manner as provided in section 502.

Regulations 53, relating to tax on soft drinks, ice cream and similar articles sold at soda fountains or similar places of business. (T. D. 2839.)

Article 4 of Regulations 53 amended. (T. D. 2893.)

Article 6 of Regulations 53 supplemented. (T. D. 2893.)

Article 20, sales by post exchanges, municipalities, etc., added to Regulations 53. (T. D. 2893.)

Remission of
tax on grape
brandy acci-
dently destroyed.

SEC. 5. [*Act of June 7, 1906 (34 Stat., 215).*] That the provisions of sections thirty-two hundred and twenty-one and thirty-two hundred and twenty-three of the Revised Statutes of the United States, as amended by an act approved March first, eighteen hundred and seventy-nine, are hereby extended to grape brandy withdrawn for use in the fortification of sweet wines, and which, prior to such use, is accidentally destroyed by fire or other casualty while stored in the fortifying room on the winery premises.

This section is held as not repealed by the amendatory act of October 22, 1914, and subsequent acts; other sections of the act of 1906 were superseded.

Instructions relative to fortification of pure sweet wine. (Regulations 28, revised.)

General instructions relative to manufacture and sale of wine, cordials, etc. (Regulations 28, supplement No. 2.)

Synopsis of decisions relating to wines, liqueurs, cordials, etc., prior to October 30, 1916. (T. D. 2387.)

Grape juice treated with the fumes of sulphur not eligible for fortification as pure sweet wine under tariff act of October 1, 1890, and amendments thereto. (T. D. 1314.)

Suspension of the provision of regulations prohibiting use of fortified wines in the manufacture or preparation of patent or proprietary medicines or compounds. (T. D. 1435.)

CHAPTER SEVEN. NATIONAL PROHIBITION.

Eighteenth Amendment to the Constitution.

NATIONAL PROHIBITION ACT.

Act October 28, 1919 (41 Stat., —).

[Title I. To Provide for the Enforcement of War Prohibition.]

Sec.

1. Definitions.
2. Investigation and report of violations of law; district attorney's duty; warrants; committing trial.
3. Place of sale as nuisance; penalty; forfeiture of lease.

Sec.

4. Abatement and injunction; jurisdiction; temporary injunction; restraining order; bond; order of court; violation of injunction; contempt proceedings.
5. Power to enforce act.
6. Partial invalidity of act.
7. Repeal of "War Prohibition Act;" annulment of orders or regulations.

[Title II. Prohibition of Intoxicating Beverages.]

Sec.

1. Definitions: Commissioner acting through agent.
2. Report of violations to United States attorney; warrants; committing trial; search warrants.
3. Manufacture, etc., of intoxicating liquor after eighteenth amendment to Constitution becomes effective; construction of act; nonbeverage liquor and sacramental wine; purchase and sale of warehouse receipts.
4. Exception of stated articles; denatured alcohol or denatured rum; medicinal preparations; patented medicines; toilet preparations; flavoring extracts; vinegar and cider; procurement of permits; penalties; notice by Commissioner.
5. Analysis of articles; notice to manufacturer; revocation of permit to manufacture; review.
6. Permit required; exceptions; extension of permit; wines for sacramental use.
7. Prescriptions.
8. Prescription blanks.
9. Permittee violating law; citation; hearing, etc.
10. Records.
11. Copies of permits.
12. Labels.
13. Carriers' records.
14. Notice to carrier of contents of receptacle; information on package.
15. Accepting package containing false statement for shipment.

Sec.

16. Order to deliver to one not bona fide consignee.
17. Advertisements; price list; foreign newspapers.
18. Utensils, etc., for use in manufacture of liquor.
19. Soliciting or receiving orders for liquor.
20. Civil liability for injuries caused by intoxicated person; survival of action.
21. Building, etc., declared to be public nuisance; penalty; lien.
22. Action to enjoin nuisance.
23. Keeping or carrying around liquor; intent; fees of officer for removing and selling property; leased premises.
24. Violation of injunction; contempt proceedings; penalty.
25. Property rights; search warrant; "private dwelling" defined; replevin of property.
26. Seizure of liquor being transported; liens against seized property.
27. Delivery of liquor to department or agency of United States.
28. Powers and protection of commissioner and others in enforcement of act.
29. Penalty for manufacturing or selling liquor; penalty for violating permit.
30. Attendance and testimony of witnesses; perjury.
31. Place of sale where delivery made by carrier.

Sec.

32. Joinder of offenses in indictment, etc.; name of purchaser, etc.
33. Possession of liquor as prima facie evidence of violation of act; report of possession of liquor; possession in private dwelling.
34. Inspection of records and reports; copies of records.
35. Repeal of inconsistent laws; tax on illegally-manufactured liquor; compromises.

Sec.

36. Partial invalidity of act.
37. Storage of liquor; beverages containing less than one-half of 1 per cent of alcohol; fortified wines; burden of proof; expense of analysis.
38. Employment of assistants, clerks, etc.; purchase of office supplies; preference to soldiers and sailors; appropriation.
39. Summons.

[Title III. Industrial Alcohol.]

Sec.

1. Definitions.
2. Permits; bonds.
3. Warehouses; entries and withdrawals.
4. Transfers.
5. Time tax attaches; joint and several liability for tax; lien of tax.
6. Withdrawal from bonded warehouses; redistillation, etc.
7. Operation of distillery, etc., as industrial alcohol plant.
8. Manner of producing alcohol.
9. Exemption of plants and warehouses from certain sections of Revised Statutes; regulations.
10. Establishment of plant; sale tax free; distilled vinegar.

Sec.

11. Withdrawal; spirits of less proof than 160; withdrawal by United States, States, etc.; permits.
12. Additional penalties.
13. Regulations.
14. Refunds in case of losses.
15. Penalties.
16. Collection of tax.
17. Release of seized property.
18. Administrative provisions of internal-revenue law applicable.
19. Repeal of laws.
20. Canal Zone; fine and imprisonment.
21. Effective date of provisions; passage over President's veto.

AMENDMENT TO CONSTITUTION.

ARTICLE 18.

Prohibition of
intoxicating li-
quors for beverage
purposes.

Section 1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

Enforcement.

Sec. 2. The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

Ratification
within seven
years required.

Sec. 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

Act of November 21, 1918 (40 Stat., 1045), was not abrogated or repealed by the eighteenth amendment to the Constitution. (*Hamilton v. Kentucky Distilleries & Warehouse Co.* and *Dryfoos et al. v. Edwards*, decided by Supreme Court, December 15, 1919.)

NATIONAL PROHIBITION ACT.

Short title.

Be it enacted, That the short title of this Act shall be the "National Prohibition Act."

TITLE I.

TO PROVIDE FOR THE ENFORCEMENT OF WAR PROHIBITION.

SECTION 1. [*Act October 28, 1919 (41 Stat.)*]. "War Prohibition Act" defined.

The term "War Prohibition Act" used in this Act shall mean the provisions of any Act or Acts prohibiting the sale and manufacture of intoxicating liquors until the conclusion of the present war and thereafter until the termination of demobilization, the date of which shall be determined and proclaimed by the President of the United States. The words "beer, wine, or other intoxicating malt or vinous liquors" in the War Prohibition Act shall be hereafter construed to mean any such beverages which contain one-half of 1 per centum or more of alcohol by volume: *Provided*, That the foregoing definition shall not extend to dealcoholized wine nor to any beverage or liquid produced by the process by which beer, ale, porter or wine is produced, if it contains less than one-half of 1 per centum of alcohol by volume, and is made as prescribed in section 37 of Title II of this Act, and is otherwise denominated than as beer, ale, or porter, and is contained and sold in, or from, such sealed and labeled bottles, casks, or containers as the commissioner may by regulation prescribe.

"Beer, wine, or other intoxicating malt or vinous liquors" defined.

SEC. 2. The Commissioner of Internal Revenue, his assistants, agents, and inspectors, shall investigate and report violations of the War Prohibition Act to the United States attorney for the district in which committed, who shall be charged with the duty of prosecuting, subject to the direction of the Attorney General, the offenders as in the case of other offenses against laws of the United States; and such Commissioner of Internal Revenue, his assistants, agents, and inspectors may swear out warrants before United States commissioners or other officers or courts authorized to issue the same for the apprehension of such offenders, and may, subject to the control of the said United States attorney, conduct the prosecution at the committing trial for the purpose of having the offenders held for the action of a grand jury.

Investigation and report of violations of law.

District attorney's duty.

Warrants; committing trial.

SEC. 3. Any room, house, building, boat, vehicle, structure, or place of any kind where intoxicating liquor is sold, manufactured, kept for sale, or bartered in violation of the War Prohibition Act, and all intoxicating liquor and all property kept and used in maintaining such a place, is hereby declared to be a public and common nuisance, and any person who maintains or assists in maintaining such public and common nuisance shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than \$100 nor more than \$1,000, or be imprisoned for not less than thirty days or more than one year, or both. If a person has knowledge that his property is occupied or used in violation of the provisions of the War Prohibition Act and suffers the same to be so used, such property shall be subject to a lien for, and may be sold to pay, all fines and costs assessed against the oc-

Place of sale as nuisance.

Penalty.

cupant of such building or property for any violation of the War Prohibition Act occurring after the passage hereof, which said lien shall attach from the time of the filing of notice of the commencement of the suit in the office where the records of the transfer of real estate are kept; and any such lien may be established and enforced by legal action instituted for that purpose in any court having jurisdiction. Any violation of this title upon any leased premises by the lessee or occupant thereof shall, at the option of the lessor, work a forfeiture of the lease.

Forfeiture of lease.

Abatement and injunction.

Jurisdiction.

Temporary injunction.

Restraining order.

Bond.

Order of court.

SEC. 4. The United States attorney for the district where such nuisance as is defined in this Act exists, or any officer designated by him or the Attorney General of the United States, may prosecute a suit in equity in the name of the United States to abate and enjoin the same. Actions in equity to enjoin and abate such nuisances may be brought in any court having jurisdiction to hear and determine equity causes. The jurisdiction of the courts of the United States under this section shall be concurrent with that of the courts of the several States.

If it be made to appear by affidavit, or other evidence under oath, to the satisfaction of the court, or judge in vacation, that the nuisance complained of exists, a temporary writ of injunction shall forthwith issue restraining the defendant or defendants from conducting or permitting the continuance of such nuisance until the conclusion of the trial. Where a temporary injunction is prayed for, the court may issue an order restraining the defendants and all other persons from removing or in any way interfering with the liquor or fixtures, or other things used in connection with the violation constituting the nuisance. No bond shall be required as a condition for making any order or issuing any writ of injunction under this Act. If the court shall find the property involved was being unlawfully used as aforesaid at or about the time alleged in the petition, the court shall order that no liquors shall be manufactured, sold, bartered, or stored in such room, house, building, boat, vehicle, structure, or places of any kind, for a period of not exceeding one year, or during the war and the period of demobilization. Whenever an action to enjoin a nuisance shall have been brought pursuant to the provisions of this Act, if the owner, lessee, tenant, or occupant appears and pays all costs of the proceedings and files a bond, with sureties to be approved by the clerk of the court in which the action is brought, in the liquidated sum of not less than \$500 nor more than \$1,000, conditioned that he will immediately abate said nuisance and prevent the same from being established or kept therein a period of one year thereafter, or during the war and period of demobilization, the court, or in vacation the judge, may, if satisfied of his good faith, direct by appropriate order that the property, if already closed or held under the order of abatement, be delivered to said owner, and said

order of abatement canceled, so far as the same may relate to said property; or if said bond be given and costs therein paid before judgment on an order of abatement, the action shall be thereby abated as to said room, house, building, boat, vehicle, structure, or place only. The release of the property under the provisions of this section shall not release it from any judgment, lien, penalty, or liability to which it may be subject by law.

In the case of the violation of any injunction, temporary or permanent, granted pursuant to the provisions of this Title, the court, or in vacation a judge thereof, may summarily try and punish the defendant. The proceedings for punishment for contempt shall be commenced by filing with the clerk of the court from which such injunction issued information under oath setting out the alleged facts constituting the violation, whereupon the court or judge shall forthwith cause a warrant to issue under which the defendant shall be arrested. The trial may be had upon affidavits, or either party may demand the production and oral examination of the witnesses. Any person found guilty of contempt under the provisions of this section shall be punished by a fine of not less than \$500 nor more than \$1,000, or by imprisonment of not less than thirty days nor more than twelve months, or by both fine and imprisonment.

Violation of
injunction.

Contempt pro-
ceedings.

SEC. 5. The Commissioner of Internal Revenue, his assistants, agents, and inspectors, and all other officers of the United States whose duty it is to enforce criminal laws, shall have all the power for the enforcement of the War Prohibition Act or any provisions thereof which is conferred by law for the enforcement of existing laws relating to the manufacture or sale of intoxicating liquors under the laws of the United States.

Power to en-
force act.

SEC. 6. If any section or provision of this Act shall be held to be invalid, it is hereby provided that all other provisions of this Act which are not expressly held to be invalid shall continue in full force and effect.

Partial invalid-
ity of act.

SEC. 7. None of the provisions of this Act shall be construed to repeal any of the provisions of the "War Prohibition Act," or to limit or annul any order or regulation prohibiting the manufacture, sale, or disposition of intoxicating liquors within certain prescribed zones or districts, nor shall the provisions of this Act be construed to prohibit the use of the power of the military or naval authorities to enforce the regulations of the President or Secretary of War or Navy issued in pursuance of law, prohibiting the manufacture, use, possession, sale, or other disposition of intoxicating liquors during the period of the war and demobilization thereafter.

Repeal of
"War Prohibi-
tion Act."

Annulment of
orders or regula-
tions.

Sales of distilled spirits and wines for medicinal, etc., purposes. (T. D. 2950.)

TITLE II.

PROHIBITION OF INTOXICATING BEVERAGES.

Definitions.

SEC. 1. When used in Title II and Title III of this Act (1) The word "liquor" or the phrase "intoxicating liquor" shall be construed to include alcohol, brandy, whisky, rum, gin, beer, ale, porter, and wine, and in addition thereto any spirituous, vinous, malt, or fermented liquor, liquids, and compounds, whether medicated, proprietary, patented, or not, and by whatever name called, containing one-half of 1 per centum or more alcohol by volume which are fit for use for beverage purposes: *Provided*, That the foregoing definition shall not extend to dealcoholized wine nor to any beverage or liquid produced by the process by which beer, ale, porter or wine is produced, if it contains less than one-half of 1 per centum of alcohol by volume, and is made as prescribed in section 37 of this title, and is otherwise denominated than as beer, ale, or porter, and is contained and sold in, or from, such sealed and labeled bottles, casks, or containers as the commissioner may by regulation prescribe.

(2) The word "person" shall mean and include natural persons, associations, copartnerships, and corporations.

(3) The word "commissioner" shall mean Commissioner of Internal Revenue.

(4) The term "application" shall mean a formal written request supported by a verified statement of facts showing that the commissioner may grant the request.

(5) The term "permit" shall mean a formal written authorization by the commissioner setting forth specifically therein the things that are authorized.

(6) The term "bond" shall mean an obligation authorized or required by or under this Act or any regulation, executed in such form and for such a penal sum as may be required by a court, the commissioner or prescribed by regulation.

(7) The term "regulation" shall mean any regulation prescribed by the commissioner with the approval of the Secretary of the Treasury for carrying out the provisions of this Act, and the commissioner is authorized to make such regulations.

Commissioner
acting through
agent.

Any act authorized to be done by the commissioner may be performed by any assistant or agent designated by him for that purpose. Records required to be filed with the commissioner may be filed with an assistant commissioner or other person designated by the commissioner to receive such records.

Report of violations to United States attorney.

SEC. 2. The Commissioner of Internal Revenue, his assistants, agents, and inspectors shall investigate and report violations of this Act to the United States attorney for the district in which committed, who is hereby charged with the duty of prosecuting the offenders, subject to the direction of the Attorney General, as in the case of other offenses against the laws of the United States; and such Commissioner of Internal Revenue, his

assistants, agents, and inspectors may swear out warrants before United States commissioners or other officers or courts authorized to issue the same for the apprehension of such offenders, and may, subject to the control of the said United States attorney, conduct the prosecution at the committing trial for the purpose of having the offenders held for the action of a grand jury. Section 1014 of the Revised Statutes of the United States is hereby made applicable in the enforcement of this Act. Officers mentioned in said section 1014 are authorized to issue search warrants under the limitations provided in Title XI of the Act approved June 15, 1917 (Fortieth Statutes at Large, page 217, et seq.).

Warrants.

Committing trial.

Search warrants.

See p. 602.

SEC. 3. No person shall on or after the date when the eighteenth amendment to the Constitution of the United States goes into effect, manufacture, sell, barter, transport, import, export, deliver, furnish or possess any intoxicating liquor except as authorized in this Act, and all the provisions of this Act shall be liberally construed to the end that the use of intoxicating liquor as a beverage may be prevented.

Manufacture, etc., of intoxicating liquor after eighteenth amendment to Constitution becomes effective.

Construction of act.

The eighteenth amendment to the Constitution became effective at 12.01 a. m., January 17, 1920.

Liquor for nonbeverage purposes and wine for sacramental purposes may be manufactured, purchased, sold, bartered, transported, imported, exported, delivered, furnished and possessed, but only as herein provided, and the commissioner may, upon application, issue permits therefor: *Provided*, That nothing in this Act shall prohibit the purchase and sale of warehouse receipts covering distilled spirits on deposit in Government bonded warehouses, and no special tax liability shall attach to the business of purchasing and selling such warehouse receipts.

Nonbeverage liquor and sacramental wine.

Purchase and sale of warehouse receipts.

SEC. 4. The articles enumerated in this section shall not, after having been manufactured and prepared for the market, be subject to the provisions of this Act if they correspond with the following descriptions and limitations, namely:

Exception of stated articles.

(a) Denatured alcohol or denatured rum produced and used as provided by laws and regulations now or hereafter in force.

Denatured alcohol or denatured rum.

(b) Medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopœia, National Formulary or the American Institute of Homeopathy that are unfit for use for beverage purposes.

Medicinal preparations.

(c) Patented, patent, and proprietary medicines that are unfit for use for beverage purposes.

Patented medicines.

(d) Toilet, medicinal, and antiseptic preparations and solutions that are unfit for use for beverage purposes.

Toilet preparations.

(e) Flavoring extracts and sirups that are unfit for use as a beverage, or for intoxicating beverage purposes.

Flavoring extracts.

(f) Vinegar and preserved sweet cider.

Vinegar and cider.

Procurement of permits.

A person who manufactures any of the articles mentioned in this section may purchase and possess liquor for that purpose, but he shall secure permits to manufacture such articles and to purchase such liquor, give the bonds, keep the records, and make the reports specified in this Act and as directed by the commissioner. No such manufacturer shall sell, use, or dispose of any liquor otherwise than as an ingredient of the articles authorized to be manufactured therefrom. No more alcohol shall be used in the manufacture of any extract, sirup, or the articles named in paragraphs b, c, and d of this section which may be used for beverage purposes than the quantity necessary for extraction or solution of the elements contained therein and for the preservation of the article.

Penalties.

Any person who shall knowingly sell any of the articles mentioned in paragraphs a, b, c, and d of this section for beverage purposes, or any extract or sirup for intoxicating beverage purposes, or who shall sell any of the same under circumstances from which the seller might reasonably deduce the intention of the purchaser to use them for such purposes, or shall sell any beverage containing one-half of 1 per centum or more of alcohol by volume in which any extract, sirup, or other article is used as an ingredient, shall be subject to the penalties provided in section 29 of this Title. If the commissioner shall find, after notice and hearing as provided for in section 5 of this Title, that any person has sold any flavoring extract, sirup, or beverage in violation of this paragraph, he shall notify such person, and any known principal for whom the sale was made, to desist from selling such article; and it shall thereupon be unlawful for a period of one year thereafter for any person so notified to sell any such extract, sirup, or beverage without making an application for, giving a bond, and obtaining a permit so to do, which permit may be issued upon such conditions as the commissioner may deem necessary to prevent such illegal sales, and in addition the commissioner shall require a record and report of sales.

Notice by commissioner.

Analysis of articles.

SEC. 5. Whenever the commissioner has reason to believe that any article mentioned in section 4 does not correspond with the descriptions and limitations therein provided, he shall cause an analysis of said article to be made, and if, upon such analysis, the commissioner shall find that said article does not so correspond, he shall give not less than fifteen days' notice in writing to the person who is the manufacturer thereof to show cause why said article should not be dealt with as an intoxicating liquor, such notice to be served personally or by registered mail, as the commissioner may determine, and shall specify the time when, the place where, and the name of the agent or official before whom such person is required to appear.

Notice to manufacturer.

Revocation of permit to manufacture.

If the manufacturer of said article fails to show to the satisfaction of the commissioner that the article corresponds to the descriptions and limitations provided in

section 4 of this Title, his permit to manufacture and sell such article shall be revoked. The manufacturer may by appropriate proceeding in a court of equity have the action of the commissioner reviewed, and the court may affirm, modify, or reverse the finding of the commissioner as the facts and law of the case may warrant, and during the pendency of such proceedings may restrain the manufacture, sale, or other disposition of such article.

Review.

SEC. 6. No one shall manufacture, sell, purchase, transport, or prescribe any liquor without first obtaining a permit from the commissioner so to do, except that a person may, without a permit, purchase and use liquor for medicinal purposes when prescribed by a physician as herein provided, and except that any person who in the opinion of the commissioner is conducting a bona fide hospital or sanatorium engaged in the treatment of persons suffering from alcoholism, may, under such rules, regulations, and conditions as the commissioner shall prescribe, purchase and use, in accordance with the methods in use in such institution, liquor, to be administered to the patients of such institution under the direction of a duly qualified physician employed by such institution.

Permit required; exceptions.

All permits to manufacture, prescribe, sell, or transport liquor, may be issued for one year, and shall expire on the 31st day of December next succeeding the issuance thereof: *Provided*, That the commissioner may without formal application or new bond extend any permit granted under this Act or laws now in force after August 31 in any year to December 31 of the succeeding year: *Provided further*, That permits to purchase liquor for the purpose of manufacturing or selling as provided in this Act shall not be in force to exceed ninety days from the day of issuance. A permit to purchase liquor for any other purpose shall not be in force to exceed thirty days. Permits to purchase liquor shall specify the quantity and kind to be purchased and the purpose for which it is to be used. No permit shall be issued to any person who within one year prior to the application therefor or issuance thereof shall have violated the terms of any permit issued under this Title or any law of the United States or of any State regulating traffic in liquor. No permit shall be issued to anyone to sell liquor at retail, unless the sale is to be made through a pharmacist designated in the permit and duly licensed under the laws of his State to compound and dispense medicine prescribed by a duly licensed physician. No one shall be given a permit to prescribe liquor unless he is a physician duly licensed to practice medicine and actively engaged in the practice of such profession. Every permit shall be in writing, dated when issued, and signed by the commissioner or his authorized agent. It shall give the name and address of the person to whom it is issued and shall designate and limit the acts that are permitted and the time when and place where such acts may be performed.

Extension of permit.

No permit shall be issued until a verified, written application shall have been made therefor, setting forth the qualification of the applicant and the purpose for which the liquor is to be used.

The commissioner may prescribe the form of all permits and applications and the facts to be set forth therein. Before any permit is granted the commissioner may require a bond in such form and amount as he may prescribe to insure compliance with the terms of the permit and the provisions of this title. In the event of the refusal by the commissioner of any application for a permit, the applicant may have a review of his decision before a court of equity in the manner provided in section 5 hereof.

Wines for sacramental use.

Nothing in this title shall be held to apply to the manufacture, sale, transportation, importation, possession, or distribution of wine for sacramental purposes, or like religious rites, except section 6 (save as the same requires a permit to purchase) and section 10 hereof, and the provisions of this Act prescribing penalties for the violation of either of said sections. No person to whom a permit may be issued to manufacture, transport, import, or sell wines for sacramental purposes or like religious rites shall sell, barter, exchange, or furnish any such to any person not a rabbi, minister of the gospel, priest, or an officer duly authorized for the purpose by any church or congregation, nor to any such except upon an application duly subscribed by him, which application, authenticated as regulations may prescribe, shall be filed and preserved by the seller. The head of any conference or diocese or other ecclesiastical jurisdiction may designate any rabbi, minister, or priest to supervise the manufacture of wine to be used for the purposes and rites in this section mentioned, and the person so designated may, in the discretion of the commissioner, be granted a permit to supervise such manufacture.

Procedure in securing permits. (T. Ds. 2940, 2946.)

Prescriptions.

SEC. 7. No one but a physician holding a permit to prescribe liquor shall issue any prescription for liquor. And no physician shall prescribe liquor unless after careful physical examination of the person for whose use such prescription is sought, or if such examination is found impracticable, then upon the best information obtainable, he in good faith believes that the use of such liquor as a medicine by such person is necessary and will afford relief to him from some known ailment. Not more than a pint of spirituous liquor to be taken internally shall be prescribed for use by the same person within any period of ten days and no prescription shall be filled more than once. Any pharmacist filling a prescription shall at the time indorse upon it over his own signature the word "canceled," together with the date when the liquor was delivered, and then make the same

a part of the record that he is required to keep as herein provided.

Every physician who issues a prescription for liquor shall keep a record, alphabetically arranged in a book prescribed by the commissioner, which shall show the date of issue, amount prescribed, to whom issued, the purpose or ailment for which it is to be used and directions for use, stating the amount and frequency of the dose.

SEC. 8. The commissioner shall cause to be printed blanks for the prescriptions herein required, and he shall furnish the same, free of cost, to physicians holding permits to prescribe. The prescription blanks shall be printed in book form and shall be numbered consecutively from one to one hundred, and each book shall be given a number, and the stubs in each book shall carry the same numbers as and be copies of the prescriptions. The books containing such stubs shall be returned to the commissioner when the prescription blanks have been used, or sooner, if directed by the commissioner. All unused, mutilated, or defaced blanks shall be returned with the book. No physician shall prescribe and no pharmacist shall fill any prescription for liquor except on blanks so provided, except in cases of emergency, in which event a record and report shall be made and kept as in other cases.

SEC. 9. If at any time there shall be filed with the commissioner a complaint under oath setting forth facts showing, or if the commissioner has reason to believe, that any person who has a permit is not in good faith conforming to the provisions of this Act, or has violated the laws of any State relating to intoxicating liquor, the commissioner or his agent shall immediately issue an order citing such person to appear before him on a day named not more than thirty and not less than fifteen days from the date of service upon such permittee of a copy of the citation, which citation shall be accompanied by a copy of such complaint, or in the event that the proceedings be initiated by the commissioner with a statement of the facts constituting the violation charged, at which time a hearing shall be had unless continued for cause. Such hearings shall be held within the judicial district and within fifty miles of the place where the offense is alleged to have occurred, unless the parties agree on another place. If it be found that such person has been guilty of willfully violating any such laws, as charged, or has not in good faith conformed to the provisions of this Act, such permit shall be revoked, and no permit shall be granted to such person within one year thereafter. Should the permit be revoked by the commissioner, the permittee may have a review of his decision before a court of equity in the manner provided in section 5 hereof. During the pendency of such action such permit shall be temporarily revoked.

Prescription
blanks.

Permittee vio-
lating law.

Citation;
hearing; etc.

Records.

SEC. 10. No person shall manufacture, purchase for sale, sell, or transport any liquor without making at the time a permanent record thereof showing in detail the amount and kind of liquor manufactured, purchased, sold, or transported, together with the names and addresses of the persons to whom sold, in case of sale, and the consignor and consignee in case of transportation, and the time and place of such manufacture, sale, or transportation. The commissioner may prescribe the form of such record, which shall at all times be open to inspection as in this Act provided.

Copies of permits.

SEC. 11. All manufacturers and wholesale or retail druggists shall keep as a part of the records required of them a copy of all permits to purchase on which a sale of any liquor is made, and no manufacturer or wholesale druggist shall sell or otherwise dispose of any liquor except at wholesale and only to persons having permits to purchase in such quantities.

Labels.

SEC. 12. All persons manufacturing liquor for sale under the provisions of this title shall securely and permanently attach to every container thereof, as the same is manufactured, a label stating name of manufacturer, kind and quantity of liquor contained therein, and the date of its manufacture, together with the number of the permit authorizing the manufacture thereof; and all persons possessing such liquor in wholesale quantities shall securely keep and maintain such label thereon; and all persons selling at wholesale shall attach to every package of liquor, when sold, a label setting forth the kind and quantity of liquor contained therein, by whom manufactured, the date of sale, and the person to whom sold; which label shall likewise be kept and maintained thereon until the liquor is used for the purpose for which such sale was authorized.

Carriers' records.

SEC. 13. It shall be the duty of every carrier to make a record at the place of shipment of the receipt of any liquor transported, and he shall deliver liquor only to persons who present to the carrier a verified copy of a permit to purchase which shall be made a part of the carrier's permanent record at the office from which delivery is made.

The agent of the common carrier is hereby authorized to administer the oath to the consignee in verification of the copy of the permit presented, who, if not personally known to the agent, shall be identified before the delivery of the liquor to him. The name and address of the person identifying the consignee shall be included in the record.

Notice to carrier of contents of receptacle.

SEC. 14. It shall be unlawful for a person to use or induce any carrier, or any agent or employee thereof, to carry or ship any package or receptacle containing liquor without notifying the carrier of the true nature and character of the shipment. No carrier shall transport nor shall any person receive liquor from a carrier unless there

appears on the outside of the package containing such liquor the following information:

Name and address of the consignor or seller, name and address of the consignee, kind and quantity of liquor contained therein, and number of the permit to purchase or ship the same, together with the name and address of the person using the permit.

Information on package.

SEC. 15. It shall be unlawful for any consignee to accept or receive any package containing any liquor upon which appears a statement known to him to be false, or for any carrier or other person to consign, ship, transport, or deliver any such package, knowing such statement to be false.

Accepting package containing false statement for shipment.

SEC. 16. It shall be unlawful to give to any carrier or any officer, agent, or person acting or assuming to act for such carrier an order requiring the delivery to any person of any liquor or package containing liquor consigned to, or purporting or claimed to be consigned to a person, when the purpose of the order is to enable any person not an actual bona fide consignee to obtain such liquor.

Order to deliver to one not bona fide consignee.

SEC. 17. It shall be unlawful to advertise anywhere, or by any means or method, liquor, or the manufacture, sale, keeping for sale or furnishing of the same, or where, how, from whom, or at what price the same may be obtained. No one shall permit any sign or billboard containing such advertisement to remain upon one's premises. But nothing herein shall prohibit manufacturers and wholesale druggists holding permits to sell liquor from furnishing price lists, with description of liquor for sale, to persons permitted to purchase liquor, or from advertising alcohol in business publications or trade journals circulating generally among manufacturers of lawful alcoholic perfumes, toilet preparations, flavoring extracts, medicinal preparations, and like articles: *Provided, however,* That nothing in this Act or in the Act making appropriations for the Post Office Department, approved March 3, 1917 (Thirty-ninth Statutes at Large, Part 1, page 1058, et seq.), shall apply to newspapers published in foreign countries when mailed to this country.

Advertisements.

Price lists.

Foreign newspapers.

SEC. 18. It shall be unlawful to advertise, manufacture, sell, or possess for sale any utensil, contrivance, machine, preparation, compound, tablet, substance, formula, direction, or recipe advertised, designed, or intended for use in the unlawful manufacture of intoxicating liquor.

Utensils, etc., for use in manufacture of liquor.

SEC. 19. No person shall solicit or receive, nor knowingly permit his employee to solicit or receive, from any person any order for liquor or give any information of how liquor may be obtained in violation of this Act.

Soliciting or receiving orders for liquor.

SEC. 20. Any person who shall be injured in person, property, means of support, or otherwise by any intoxicated person, or by reason of the intoxication of any person, whether resulting in his death or not, shall have a

Civil liability for injuries caused by intoxicated person.

right of action against any person who shall, by unlawfully selling to or unlawfully assisting in procuring liquor for such intoxicated person, have caused or contributed to such intoxication, and in any such action such person shall have a right to recover actual and exemplary damages. In case of the death of either party, the action or right of action given by this section shall survive to or against his or her executor or administrator, and the amount so recovered by either wife or child shall be his or her sole and separate property. Such action may be brought in any court of competent jurisdiction. In any case where parents shall be entitled to such damages, either the father or mother may sue alone therefor, but recovery by one of such parties shall be a bar to suit brought by the other.

Survival of action.

Building, etc., declared to be public nuisance.

SEC. 21. Any room, house, building, boat, vehicle, structure, or place where intoxicating liquor is manufactured, sold, kept, or bartered in violation of this title, and all intoxicating liquor and property kept and used in maintaining the same, is hereby declared to be a common nuisance, and any person who maintains such a common nuisance shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or be imprisoned for not more than one year, or both. If a person has knowledge or reason to believe that his room, house, building, boat, vehicle, structure, or place is occupied or used for the manufacture or sale of liquor contrary to the provision of this title, and suffers the same to be so occupied or used, such room, house, building, boat, vehicle, structure, or place shall be subject to a lien for and may be sold to pay all fines and costs assessed against the person guilty of such nuisance for such violation, and any such lien may be enforced by action in any court having jurisdiction.

Penalty.

Lien.

Action to enjoin nuisance.

SEC. 22. An action to enjoin any nuisance defined in this title may be brought in the name of the United States by the Attorney General of the United States or by any United States attorney or any prosecuting attorney of any State or any subdivision thereof or by the commissioner or his deputies or assistants. Such action shall be brought and tried as an action in equity and may be brought in any court having jurisdiction to hear and determine equity cases. If it is made to appear by affidavits or otherwise, to the satisfaction of the court, or judge in vacation, that such nuisance exists, a temporary writ of injunction shall forthwith issue restraining the defendant from conducting or permitting the continuance of such nuisance until the conclusion of the trial. If a temporary injunction is prayed for, the court may issue an order restraining the defendant and all other persons from removing or in any way interfering with the liquor or fixtures, or other things used in connection with the violation of this Act constituting such nuisance. No bond shall be required in instituting

such proceedings. It shall not be necessary for the court to find the property involved was being unlawfully used as aforesaid at the time of the hearing, but on finding that the material allegations of the petition are true, the court shall order that no liquors shall be manufactured, sold, bartered, or stored in such room, house, building, boat, vehicle, structure, or place, or any part thereof. And upon judgment of the court ordering such nuisance to be abated, the court may order that the room, house, building, structure, boat, vehicle, or place shall not be occupied or used for one year thereafter; but the court may, in its discretion, permit it to be occupied or used if the owner, lessee, tenant, or occupant thereof shall give bond with sufficient surety, to be approved by the court making the order, in the penal and liquidated sum of not less than \$500 nor more than \$1,000, payable to the United States, and conditioned that intoxicating liquor will not thereafter be manufactured, sold, bartered, kept, or otherwise disposed of therein or thereon, and that he will pay all fines, costs, and damages that may be assessed for any violation of this title upon said property.

Sec. 23. That any person who shall, with intent to effect a sale of liquor, by himself, his employee, servant, or agent, for himself or any person, company or corporation, keep or carry around on his person, or in a vehicle, or other conveyance whatever, or leave in a place for another to secure, any liquor, or who shall travel to solicit, or solicit, or take, or accept orders for the sale, shipment, or delivery of liquor in violation of this title is guilty of a nuisance and may be restrained by injunction, temporary and permanent, from doing or continuing to do any of said acts or things.

Keeping or carrying around liquor.

In such proceedings it shall not be necessary to show any intention on the part of the accused to continue such violations if the action is brought within sixty days following any such violation of the law.

Intent.

For removing and selling property in enforcing this Act the officer shall be entitled to charge and receive the same fee as the sheriff of the county would receive for levying upon and selling property under execution, and for closing the premises and keeping them closed a reasonable sum shall be allowed by the court.

Fees of officer for removing and selling property.

Any violation of this title upon any leased premises by the lessee or occupant thereof shall, at the option of the lessor, work a forfeiture of the lease.

Leased premises.

Sec. 24. In the case of the violation of any injunction, temporary or permanent, granted pursuant to the provisions of this title, the court, or in vacation a judge thereof, may summarily try and punish the defendant. The proceedings for punishment for contempt shall be commenced by filing with the clerk of the court from which such injunction issued information under oath setting out the alleged facts constituting the violation, whereupon the court or judge shall forthwith cause a

Violation of injunction.

Contempt proceedings.

Penalty.

Property rights.

Search warrants; 40 Stat. 228; see post, p.

"Private dwelling" defined.

Replevin of property.

Seizure of liquor being transported.

warrant to issue under which the defendant shall be arrested. The trial may be had upon affidavits, or either party may demand the production and oral examination of the witnesses. Any person found guilty of contempt under the provisions of this section shall be punished by a fine of not less than \$500 nor more than \$1,000, or by imprisonment of not less than thirty days nor more than twelve months, or by both fine and imprisonment.

SEC. 25. It shall be unlawful to have or possess any liquor or property designed for the manufacture of liquor intended for use in violating this title or which has been so used, and no property rights shall exist in any such liquor or property. A search warrant may issue as provided in Title XI of public law numbered 24 of the Sixty-fifth Congress, approved June 15, 1917, and such liquor, the containers thereof, and such property so seized shall be subject to such disposition as the court may make thereof. If it is found that such liquor or property was so unlawfully held or possessed, or had been so unlawfully used, the liquor, and all property designed for the unlawful manufacture of liquor, shall be destroyed, unless the court shall otherwise order. No search warrant shall issue to search any private dwelling occupied as such unless it is being used for the unlawful sale of intoxicating liquor, or unless it is in part used for some business purpose such as a store, shop, saloon, restaurant, hotel, or boarding house. The term "private dwelling" shall be construed to include the room or rooms used and occupied not transiently but solely as a residence in an apartment house, hotel, or boarding house. The property seized on any such warrant shall not be taken from the officer seizing the same on any writ of replevin or other like process.

SEC. 26. When the commissioner, his assistants, inspectors, or any officer of the law shall discover any person in the act of transporting in violation of the law, intoxicating liquors in any wagon, buggy, automobile, water or air craft, or other vehicle, it shall be his duty to seize any and all intoxicating liquors found therein being transported contrary to law. Whenever intoxicating liquors transported or possessed illegally shall be seized by an officer he shall take possession of the vehicle and team or automobile, boat, air or water craft, or any other conveyance, and shall arrest any person in charge thereof. Such officer shall at once proceed against the person arrested under the provisions of this title in any court having competent jurisdiction; but the said vehicle or conveyance shall be returned to the owner upon execution by him of a good and valid bond, with sufficient sureties, in a sum double the value of the property, which said bond shall be approved by said officer and shall be conditioned to return said property to the custody of said officer on the day of trial to abide the judgment of the court. The court upon conviction of the person so

arrested shall order the liquor destroyed, and unless good cause to the contrary is shown by the owner, shall order a sale by public auction of the property seized, and the officer making the sale, after deducting the expenses of keeping the property, the fee for the seizure, and the cost of the sale, shall pay all liens, according to their priorities, which are established, by intervention or otherwise at said hearing or in other proceeding brought for said purpose, as being bona fide and as having been created without the lienor having any notice that the carrying vehicle was being used or was to be used for illegal transportation of liquor, and shall pay the balance of the proceeds into the Treasury of the United States as miscellaneous receipts. All liens against property sold under the provisions of this section shall be transferred from the property to the proceeds of the sale of the property. If, however, no one shall be found claiming the team, vehicle, water or air craft, or automobile, the taking of the same, with a description thereof, shall be advertised in some newspaper published in the city or county where taken or if there be no newspaper published in such city or county, in a newspaper having circulation in the county, once a week for two weeks and by handbills posted in three public places near the place of seizure, and if no claimant shall appear within ten days after the last publication of the advertisement, the property shall be sold and the proceeds after deducting the expenses and costs shall be paid into the Treasury of the United States as miscellaneous receipts.

Liens against
seized property.

SEC. 27. In all cases in which intoxicating liquors may be subject to be destroyed under the provisions of this Act the court shall have jurisdiction upon the application of the United States attorney to order them delivered to any department or agency of the United States Government for medicinal, mechanical, or scientific uses, or to order the same sold at private sale for such purposes to any person having a permit to purchase liquor the proceeds to be covered into the Treasury of the United States to the credit of miscellaneous receipts, and all liquor heretofore seized in any suit or proceeding brought for violation of law may likewise be so disposed of, if not claimed within sixty days from the date this section takes effect.

Delivery of
liquor to department or agency
of United States.

SEC. 28. The commissioner, his assistants, agents, and inspectors, and all other officers of the United States, whose duty it is to enforce criminal laws, shall have all the power and protection in the enforcement of this Act or any provisions thereof which is conferred by law for the enforcement of existing laws relating to the manufacture or sale of intoxicating liquors under the law of the United States.

Powers and
protection of
Commissioner and
others in enforcement
of act.

SEC. 29. Any person who manufactures or sells liquor in violation of this title shall for a first offense be fined not more than \$1,000, or imprisoned not exceeding six months, and for second or subsequent offense shall be

Penalty for
manufacturing or
selling liquor.

fined not less than \$200 nor more than \$2,000 and be imprisoned not less than one month nor more than five years.

Penalty for
violating permit.

Any person violating the provisions of any permit, or who makes any false record, report, or affidavit required by this title, or violates any of the provisions of this title, for which offense a special penalty is not prescribed, shall be fined for a first offense not more than \$500; for a second offense not less than \$100 nor more than \$1,000, or be imprisoned not more than ninety days; for any subsequent offense he shall be fined not less than \$500 and be imprisoned not less than three months nor more than two years. It shall be the duty of the prosecuting officer to ascertain whether the defendant has been previously convicted and to plead the prior conviction in the affidavit, information, or indictment. The penalties provided in this Act against the manufacture of liquor without a permit shall not apply to a person for manufacturing non-intoxicating cider and fruit juices exclusively for use in his home, but such cider and fruit juices shall not be sold or delivered except to persons having permits to manufacture vinegar.

Attendance and
testimony of wit-
nesses.

SEC. 30. No person shall be excused, on the ground that it may tend to incriminate him or subject him to a penalty or forfeiture, from attending and testifying, or producing books, papers, documents, and other evidence in obedience to a subpoena of any court in any suit or proceeding based upon or growing out of any alleged violation of this Act; but no natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing as to which, in obedience to a subpoena and under oath, he may so testify or produce evidence, but no person shall be exempt from prosecution and punishment for perjury committed in so testifying.

Perjury.

Place of sale
where delivery
made by carrier.

SEC. 31. In case of a sale of liquor where the delivery thereof was made by a common or other carrier the sale and delivery shall be deemed to be made in the county or district wherein the delivery was made by such carrier to the consignee, his agent or employee, or in the county or district wherein the sale was made, or from which the shipment was made, and prosecution for such sale or delivery may be had in any such county or district.

Joinder of of-
fenses in indict-
ment, etc.; name
of purchaser, etc.

SEC. 32. In any affidavit, information, or indictment for the violation of this Act, separate offenses may be united in separate counts and the defendant may be tried on all at one trial and the penalty for all offenses may be imposed. It shall not be necessary in any affidavit, information, or indictment to give the name of the purchaser or to include any defensive negative averments, but it shall be sufficient to state that the act complained of was then and there prohibited and unlawful, but this provision shall not be construed to preclude the trial court from directing the furnishing the defendant a bill of particulars when it deems it proper to do so.

SEC. 33. After February 1, 1920, the possession of liquors by any person not legally permitted under this title to possess liquor shall be prima facie evidence that such liquor is kept for the purpose of being sold, bartered, exchanged, given away, furnished, or otherwise disposed of in violation of the provisions of this title. Every person legally permitted under this title to have liquor shall report to the commissioner within ten days after the date when the eighteenth amendment of the Constitution of the United States goes into effect, the kind and amount of intoxicating liquors in his possession. But it shall not be unlawful to possess liquors in one's private dwelling while the same is occupied and used by him as his dwelling only and such liquor need not be reported, provided such liquors are for use only for the personal consumption of the owner thereof and his family residing in such dwelling and of his bona fide guests when entertained by him therein; and the burden of proof shall be upon the possessor in any action concerning the same to prove that such liquor was lawfully acquired, possessed, and used.

Possession of liquor as prima facie evidence of violation of act.

Report of possession of liquor.

Possession in private dwelling.

SEC. 34. All records and reports kept or filed under the provisions of this Act shall be subject to inspection at any reasonable hour by the commissioner or any of his agents or by any public prosecutor or by any person designated by him, or by any peace officer in the State where the record is kept, and copies of such records and reports duly certified by the person with whom kept or filed may be introduced in evidence with like effect as the originals thereof, and verified copies of such records shall be furnished to the commissioner when called for.

Inspection of records and reports.

Copies of records.

SEC. 35. All provisions of law that are inconsistent with this Act are repealed only to the extent of such inconsistency and the regulations herein provided for the manufacture or traffic in intoxicating liquor shall be construed as in addition to existing laws. This Act shall not relieve anyone from paying any taxes or other charges imposed upon the manufacture or traffic in such liquor. No liquor revenue stamps or tax receipts for any illegal manufacture or sale shall be issued in advance, but upon evidence of such illegal manufacture or sale a tax shall be assessed against, and collected from, the person responsible for such illegal manufacture or sale in double the amount now provided by law, with an additional penalty of \$500 on retail dealers and \$1,000 on manufacturers. The payment of such tax or penalty shall give no right to engage in the manufacture or sale of such liquor, or relieve anyone from criminal liability, nor shall this Act relieve any person from any liability, civil or criminal, heretofore or hereafter incurred under existing laws.

Repeal of inconsistent laws.

Tax on illegally manufactured liquor.

The commissioner, with the approval of the Secretary of the Treasury, may compromise any civil cause arising under this title before bringing action in court; and with the approval of the Attorney General he may com-

Compromises.

promise any such cause after action thereon has been commenced.

Partial invalidity of act.

SEC. 36. If any provision of this Act shall be held invalid it shall not be construed to invalidate other provisions of the Act.

Storage of liquor.

SEC. 37. Nothing herein shall prevent the storage in United States bonded warehouses of all liquor manufactured prior to the taking effect of this Act, or prevent the transportation of such liquor to such warehouses or to any wholesale druggist for sale to such druggist for purposes not prohibited when the tax is paid, and permits may be issued therefor.

Beverages containing less than one-half of 1 per cent of alcohol.

A manufacturer of any beverage containing less than one-half of 1 per centum of alcohol by volume may, on making application and giving such bond as the commissioner shall prescribe, be given a permit to develop in the manufacture thereof by the usual methods of fermentation and fortification or otherwise a liquid such as beer, ale, porter, or wine, containing more than one-half of 1 per centum of alcohol by volume, but before any such liquid is withdrawn from the factory or otherwise disposed of the alcoholic contents thereof shall under such rules and regulations as the commissioner may prescribe be reduced below such one-half of 1 per centum of alcohol: *Provided*, That such liquid may be removed and transported, under bond and under such regulations as the commissioner may prescribe, from one bonded plant or warehouse to another for the purpose of having the alcohol extracted therefrom. And such liquids may be developed, under permit, by persons other than the manufacturers of beverages containing less than one-half of 1 per centum of alcohol by volume, and sold to such manufacturers for conversion into such beverages. The alcohol removed from such liquid, if evaporated and not condensed and saved, shall not be subject to tax; if saved, it shall be subject to the same law as other alcoholic liquors. Credit shall be allowed on the tax due on any alcohol so saved to the amount of any tax paid upon distilled spirits or brandy used in the fortification of the liquor from which the same is saved.

Fortified wines.

When fortified wines are made and used for the production of nonbeverage alcohol, and dealcoholized wines containing less than one-half of 1 per centum of alcohol by volume, no tax shall be assessed or paid on the spirits used in such fortification, and such dealcoholized wines produced under the provisions of this Act, whether carbonated or not, shall not be subject to the tax on artificially carbonated or sparkling wines, but shall be subject to the tax on still wines only.

Burden of proof.

In any case where the manufacturer is charged with manufacturing or selling for beverage purposes any malt, vinous, or fermented liquids containing one-half of 1 per centum or more of alcohol by volume, or in any case where the manufacturer, having been permitted by the commissioner to develop a liquid such as ale, beer,

porter, or wine containing more than one-half of 1 per centum of alcohol by volume in the manner and for the purpose herein provided, is charged with failure to reduce the alcoholic content of any such liquid below such one-half of 1 per centum before withdrawing the same from the factory, then in either such case the burden of proof shall be on such manufacturer to show that such liquid so manufactured, sold, or withdrawn contains less than one-half of 1 per centum of alcohol by volume. In any suit or proceeding involving the alcoholic content of any beverage, the reasonable expense of analysis of such beverage shall be taxed as costs in the case.

Expense of analysis.

SEC. 38. The Commissioner of Internal Revenue and the Attorney General of the United States are hereby respectively authorized to appoint and employ such assistants, experts, clerks, and other employees in the District of Columbia or elsewhere, and to purchase such supplies and equipment as they may deem necessary for the enforcement of the provisions of this Act, but such assistants, experts, clerks, and other employees, except such executive officers as may be appointed by the Commissioner or the Attorney General to have immediate direction of the enforcement of the provisions of this Act, and persons authorized to issue permits, and agents and inspectors in the field service, shall be appointed under the rules and regulations prescribed by the Civil Service Act: *Provided*, That the Commissioner and Attorney General in making such appointments shall give preference to those who have served in the military or naval service in the recent war, if otherwise qualified, and there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sum as may be required for the enforcement of this Act including personal services in the District of Columbia, and for the fiscal year ending June 30, 1920, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$2,000,000 for the use of the Commissioner of Internal Revenue and \$100,000 for the use of the Department of Justice for the enforcement of the provisions of this Act, including personal services in the District of Columbia and necessary printing and binding.

Employment of assistants, clerks, etc.; purchase of office supplies.

22 Stat. 403. Preference to soldiers and sailors.

Appropriation.

Summons.

SEC. 39. In all cases wherein the property of any citizen is proceeded against or wherein a judgment affecting it might be rendered, and the citizen is not the one who in person violated the provisions of the law, summons must be issued in due form and served personally, if said person is to be found within the jurisdiction of the court.

TITLE III.

INDUSTRIAL ALCOHOL.

SEC. 1. When used in this title—

The term "alcohol" means that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, from whatever source or whatever processes produced.

Definitions.

The term "container" includes any receptacle, vessel, or form of package, tank, or conduit used or capable of use for holding, storing, transferring, or shipment of alcohol.

INDUSTRIAL ALCOHOL PLANTS AND WAREHOUSES.

Permits; bonds.

SEC. 2. Any person now producing alcohol shall, within thirty days after the passage of this Act, make application to the commissioner for registration of his industrial alcohol plant, and as soon thereafter as practicable the premises shall be bonded and permit may issue for the operation of such plant, and any person hereafter establishing a plant for the production of alcohol shall likewise before operation make application, file bond, and receive permit.

Warehouses; entries and withdrawals.

SEC. 3. Warehouses for the storage and distribution of alcohol to be used exclusively for other than beverage purposes may be established upon filing of application and bond, and issuance of permit at such places, either in connection with the manufacturing plant or elsewhere, as the commissioner may determine; and the entry and storage of alcohol therein, and the withdrawals of alcohol therefrom shall be made in such containers and by such means as the commissioner by regulation may prescribe.

Transfers.

SEC. 4. Alcohol produced at any registered industrial alcohol plant or stored in any bonded warehouse may be transferred under regulations to any other registered industrial alcohol plant or bonded warehouse for any lawful purpose.

Time tax attaches.

Joint and several liability for tax.

Lien of tax.

SEC. 5. Any tax imposed by law upon alcohol shall attach to such alcohol as soon as it is in existence as such, and all proprietors of industrial alcohol plants and bonded warehouses shall be jointly and severally liable for any and all taxes on any and all alcohol produced thereat or stored therein. Such taxes shall be a first lien on such alcohol and the premises and plant in which such alcohol is produced or stored, together with all improvements and appurtenances thereunto belonging or in any wise appertaining.

Withdrawal from bonded warehouses.

Redistillation, etc.

SEC. 6. Any distilled spirits produced and fit for beverage purposes remaining in any bonded warehouse on or before the date when the eighteenth amendment of the Constitution of the United States goes into effect, may, under regulations, be withdrawn therefrom either for denaturation at any bonded denaturing plant or for deposit in a bonded warehouse established under this Act; and when so withdrawn, if not suitable as to proof, purity, or quality for other than beverage purposes, such distilled spirits shall be redistilled, purified, and changed in proof so as to render such spirits suitable for other purposes, and having been so treated may thereafter be denatured or sold in accordance with the provisions of this Act.

SEC. 7. Any distillery or bonded warehouse heretofore legally established may, upon filing application and bond and the granting of permit, be operated as an industrial alcohol plant or bonded warehouse under the provisions of this title and regulations made thereunder.

Operation of distillery, etc., as industrial alcohol plant.

SEC. 8. Alcohol may be produced at any industrial alcohol plant established under the provisions of this title, from any raw materials or by any processes suitable for the production of alcohol, and, under regulations, may be used at any industrial alcohol plant or bonded warehouse or sold or disposed of for any lawful purpose, as in this Act provided.

Manner of producing alcohol.

SEC. 9. Industrial alcohol plants and bonded warehouses established under the provisions of this title shall be exempt from the provisions of sections 3154, 3244, 3258, 3259, 3260, 3263, 3264, 3266, 3267, 3268, 3269, 3271, 3273, 3274, 3275, 3279, 3280, 3283, 3284, 3285, 3286, 3287, 3288, 3289, 3290, 3291, 3292, 3293, 3294, 3295, 3302, 3303, 3307, 3308, 3309, 3310, 3311, 3312, 3313, 3314, and 3327 of the Revised Statutes; sections 48 to 60, inclusive, and sections 62 and 67 of the Act of August 27, 1894 (Twenty-eighth Statutes, pages 563 to 568), and from such other provisions of existing laws relating to distilleries and bonded warehouses as may, by regulations, be declared inapplicable to industrial alcohol plants and bonded warehouses established under this Act.

Exemption of plants and warehouses from certain sections of Revised Statutes.

Regulations may be made embodying any provision of the sections above enumerated.

Regulations.

TAX-FREE ALCOHOL.

SEC. 10. Upon the filing of application and bond and issuance of permit denaturing plants may be established upon the premises of any industrial alcohol plant, or elsewhere, and shall be used exclusively for the denaturation of alcohol by the admixture of such denaturing materials as shall render the alcohol, or any compound in which it is authorized to be used, unfit for use as an intoxicating beverage.

Establishment of plant.

Alcohol lawfully denatured may, under regulations, be sold free of tax either for domestic use or for export.

Sale tax free.

Nothing in this Act shall be construed to require manufacturers of distilled vinegar to raise the proof of any alcohol used in such manufacture or to denature the same.

Distilled vinegar.

SEC. 11. Alcohol produced at any industrial alcohol plant or stored in any bonded warehouse may, under regulations, be withdrawn tax free as provided by existing law from such plant or warehouse for transfer to any denaturing plant for denaturation, or may, under regulations, before or after denaturation, be removed from any such plant or warehouse for any lawful tax-free purpose.

Withdrawal.

Spirits of less proof than one hundred and sixty degrees may, under regulations, be deemed to be alcohol for

Spirits of less
proof than 100.

the purpose of denaturation, under the provisions of this title.

Withdrawal by
United States,
States, etc.

Alcohol may be withdrawn, under regulations, from any industrial plant or bonded warehouse tax free by the United States or any governmental agency thereof, or by the several States and Territories or any municipal subdivision thereof or by the District of Columbia, or for the use of any scientific university or college of learning, any laboratory for use exclusively in scientific research, or for use in any hospital or sanatorium.

Permits.

But any person permitted to obtain alcohol tax free, except the United States and the several States and Territories and subdivisions thereof, and the District of Columbia, shall first apply for and secure a permit to purchase the same and give the bonds prescribed under title II of this Act, but alcohol withdrawn for nonbeverage purposes for use of the United States and the several States, Territories and subdivisions thereof, and the District of Columbia may be purchased and withdrawn subject only to such regulations as may be prescribed.

GENERAL PROVISIONS.

Additional pen-
alties.

SEC. 12. The penalties provided in this title shall be in addition to any penalties provided in title 2 of this Act, unless expressly otherwise provided.

Regulations.

SEC. 13. The commissioner shall from time to time issue regulations respecting the establishment, bonding, and operation of industrial alcohol plants, denaturing plants, and bonded warehouses authorized herein, and the distribution, sale, export, and use of alcohol which may be necessary, advisable, or proper, to secure the revenue, to prevent diversion of the alcohol to illegal uses, and to place the nonbeverage alcohol industry and other industries using such alcohol as a chemical raw material or for other lawful purpose upon the highest possible plane of scientific and commercial efficiency consistent with the interests of the Government, and which shall insure an ample supply of such alcohol and promote its use in scientific research and the development of fuels, dyes, and other lawful products.

Refunds in
case of losses.

SEC. 14. Whenever any alcohol is lost by evaporation or other shrinkage, leakage, casualty, or unavoidable cause during distillation, redistillation, denaturation, withdrawal, piping, shipment, warehousing, storage, packing, transfer, or recovery, of any such alcohol the commissioner may remit or refund any tax incurred under existing law upon such alcohol, provided he is satisfied that the alcohol has not been diverted to any illegal use: *Provided, also,* That such allowance shall not be granted if the person claiming same is indemnified against such loss by a valid claim of insurance.

Penalties.

SEC. 15. Whoever operates an industrial alcohol plant or a denaturing plant without complying with the provisions of this title and lawful regulations made there-

under, or whoever withdraws or attempts to withdraw or secure tax free any alcohol subject to tax, or whoever otherwise violates any of the provisions of this title or of regulations lawfully made thereunder shall be liable, for the first offense, to a penalty of not exceeding \$1,000, or imprisonment not exceeding thirty days, or both, and for a second or cognate offense to a penalty of not less than \$100 nor more than \$10,000, and to imprisonment of not less than thirty days nor more than one year. It shall be lawful for the commissioner in all cases of second or cognate offense to refuse to issue for a period of one year a permit for the manufacture or use of alcohol upon the premises of any person responsible in any degree for the violation.

SEC. 16. Any tax payable upon alcohol under existing law may be collected either by assessment or by stamp as regulations shall provide; and if by stamp, regulations shall issue prescribing the kind of stamp to be used and the manner of affixing and canceling the same. Collection of tax.

SEC. 17. When any property is seized for violation of this title it may be released to the claimant or to any intervening party, in the discretion of the commissioner, on a bond given and approved. Release of seized property.

SEC. 18. All administrative provisions of internal-revenue law, including those relating to assessment, collection, abatement, and refund of taxes and penalties, and the seizure and forfeiture of property, are made applicable to this title in so far as they are not inconsistent with the provisions thereof. Administrative provisions of internal-revenue law applicable.

SEC. 19. All prior statutes relating to alcohol as defined in this title are hereby repealed in so far as they are inconsistent with the provisions of this title. Repeal of laws.

SEC. 20. That it shall be unlawful to import or introduce into the Canal Zone, or to manufacture, sell, give away, dispose of, transport, or have in one's possession or under one's control within the Canal Zone, any alcoholic, fermented, brewed, distilled, vinous, malt, or spirituous liquors, except for sacramental, scientific, pharmaceutical, industrial, or medicinal purposes, under regulations to be made by the President, and any such liquors within the Canal Zone in violation hereof shall be forfeited to the United States and seized: *Provided*, That this section shall not apply to liquor in transit through the Panama Canal or on the Panama Railroad. Canal Zone.

That each and every violation of any of the provisions of this section shall be punished by a fine of not more than \$1,000 or imprisonment not exceeding six months for a first offense, and by a fine not less than \$200 nor more than \$2,000 and imprisonment not less than one month nor more than five years for a second or subsequent offense. Fine and imprisonment.

That all offenses heretofore committed within the Canal Zone may be prosecuted and all penalties therefor

enforced in the same manner and to the same extent as if this act had not been passed.

SEC. 21. Titles I and III and sections 1, 27, 37, and 38 of title II of this Act shall take effect and be in force from and after the passage and approval of the Act. The other sections of title II shall take effect and be in force from and after the date when the eighteenth amendment of the Constitution of the United States goes into effect.

Effective date
of provisions.

F. H. GILLET,
Speaker of the House of Representatives.
THOS. R. MARSHALL,
*Vice President of the United States and
President of the Senate.*

IN THE HOUSE OF REPRESENTA-
TIVES OF THE UNITED STATES,
October 27, 1919.

The President of the United States having returned to the House of Representatives, in which it originated, the bill (H. R. 6810) entitled "An Act to prohibit intoxicating beverages, and to regulate the manufacture, production, use, and sale of high-proof spirits for other than beverage purposes, and to insure an ample supply of alcohol and promote its use in scientific research and in the development of fuel, dye, and other lawful industries," with his objections thereto, the House proceeded in pursuance of the Constitution to reconsider the same; and

Passage over
President's veto.

Resolved, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

Attest:

WM. TYLER PAGE
Clerk.

IN THE SENATE OF THE UNITED STATES,
*Legislative Day, October 22, 1919,
Calendar Day October 28, 1919.*

The Senate having proceeded to reconsider the bill (H. R. 6810) "An Act to prohibit intoxicating beverages, and to regulate the manufacture, production, use, and sale of high-proof spirits for other than beverage purposes, and to insure an ample supply of alcohol and promote its use in scientific research and in the development of fuel, dye, and other lawful industries," returned by the President of the United States to the House of Representatives, in which it originated, with his objections, and passed by the House on a reconsideration of the same, it was

RESOLVED, That the said bill pass, two-thirds of the Senators present having voted in the affirmative.

Attest:

GEORGE A. SANDERSON
Secretary.

3:40 P. M.

CHAPTER EIGHT.

TOBACCO AND SNUFF.

Sec.	Sec.
69. Act of August 27, 1894. Manufacturer of tobacco defined.	3370. Tobacco manufactured by one person for another or on shares; fraud in such cases; penalty.
27. Act of October 1, 1890, amended. Restrictions upon farmers removed.	3371 (amended). Assessment of tax on tobacco, snuff, and cigars removed without stamps.
3355 (amended). Manufacturer's statement.	3372. Removing unlawfully, selling without stamps, or payment of tax, or giving bond, making false entries; forfeiture.
Bond and certificate; penalties.	3373. Absence of stamp evidence of nonpayment; forfeiture.
3356. Sign to be put up by manufacturer; penalty for omission.	3374. Removing, except in proper packages or without stamp, selling unlawfully, etc.; penalty.
3357 (amended). Record of manufacturers to be kept by collector.	3375. Affixing false stamps or stamps before used; penalty.
3358. Annual inventory. Books and monthly abstracts. Taxes on cigars, cigarettes, and size of packages of tobacco; penalty.	3376. Stamps on empty packages to be destroyed; buying, selling, or using the same; penalty.
3244 (amended). Subsection 6. Dealers in leaf tobacco defined.	3377 (amended). Imported tobacco and snuff; also scraps, cuttings, and clippings.
26. Act of October 1, 1890. Registry.	3378. (Obsolete.)
3359. Dealers in leaf tobacco to render statement of sales when demanded. Examination of books.	3379. (Obsolete.)
3360 (amended). Books of dealer in leaf tobacco; penalty.	3380. (Obsolete.)
3361. (Repealed by section 69, act August 27, 1894.)	3244 (amended). Subsection 11. Peddlers of tobacco, defined.
34. Act of August 5, 1900. Effective date of certain sections.	3381 (amended). Peddlers of tobacco; statement and bond.
3362 (amended). Tobacco and snuff, how put up.	3382. Peddlers of tobacco traveling with wagon.
3363 (amended). Tobacco and snuff to be sold only in prescribed packages; penalty. Exception.	3383 (amended). Peddler to obtain and exhibit certificate, etc.
3364 (amended). Caution label; penalty.	3384 (amended). Peddling tobacco unlawfully; penalty.
3365. (Obsolete.)	3385 (amended). Exportation of manufactured tobacco, etc.; penalty for relanding, etc.
3366. Purchasing tobacco not branded or stamped; penalty.	24. Act of February 8, 1875. Transportation bond, etc.; export bond, etc.
3367. Purchasing tobacco from manufacturers who have not paid tax.	1. Act of August 4, 1886. Regulations authorized.
3368 (amended). Tax on tobacco and snuff.	1. Act of October 3, 1913. Reimported tobacco.
701. Act of February 24, 1919. Rate of tax on tobacco and snuff manufactured in or imported into United States.	3386 (amended). Drawback on exported tobacco, snuff, and cigars.
702. (Same). Floor tax.	Fraudulent claims for drawback.
3369. Stamps, how prepared, furnished, and sold.	1, 7. Act of April 30, 1912. Statistics of leaf tobacco.
Stamping forfeited tobacco or tobacco sold under distraint.	
Destruction of unsalable tobacco and cigars.	

Manufacturers
of tobacco de-
fined.

SEC. 69. [*Act of August 27, 1894 (28 Stat., 509).*] Every person whose business it is to manufacture tobacco or snuff for himself, or who employs others to manufacture tobacco or snuff, whether such manufacture be by cutting, pressing, grinding, crushing, or rubbing of any raw or leaf-tobacco, or otherwise preparing raw or leaf tobacco, or manufactured or partially manufactured tobacco or snuff, or the putting up for use or consumption of scraps, waste, clippings, stems, or deposits of tobacco resulting from any process of handling tobacco, or by the working or preparation of leaf tobacco, tobacco stems, scraps, clippings, or waste, by sifting, twisting, screening, or any other process, shall be regarded as a manufacturer of tobacco.

Retail leaf
dealers when re-
garded as manu-
facturers.

Every person shall also be regarded as a manufacturer of tobacco whose business it is to sell leaf tobacco in quantities less than a hogshead, case, or bale; or who sells directly to consumers, or to persons other than duly registered dealers in leaf tobacco, or duly registered manufacturers of tobacco, snuff or cigars, or to persons who purchase in packages for export; and all tobacco so sold by such persons shall be regarded as manufactured tobacco, and such manufactured tobacco shall be put up and prepared by such manufacturer in such packages only as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe: *Provided*, That farmers and growers of tobacco who sell leaf tobacco of their own growth and raising shall not be regarded as manufacturers of tobacco; and so much of section three thousand two hundred and forty-four of the Revised Statutes of the United States, and acts amendatory thereof, as are in conflict with this Act, are hereby repealed:

Farmers and
growers.

* * * * *

That section thirty-three hundred and sixty-one of the Revised Statutes is hereby repealed.

Special taxes on manufacturers of tobacco imposed by section 701 (a), act of February 24, 1919, see p. 381.

Restrictions
upon farmers
removed.

SEC. 27. [*Act of October 1, 1890 (26 Stat., 618), as amended by sec. 69, act of August 27, 1894 (28 Stat., 509).*] That all provisions of the statutes imposing restrictions of any kind whatsoever upon farmers and growers of tobacco in regard to the sale of their leaf tobacco, and the keeping of books, and the registration and report of their sales of leaf tobacco, or imposing any tax on account of such sales are hereby repealed.

Manufacturer's
statement, bond,
and certificates.

SEC. 3355. [*Amended by sec. 14, act of March 1, 1879 (20 Stat., 327).*] Every person, before commencing, or, if he has already commenced, before continuing, the manufacture of tobacco or snuff, shall furnish, without previous demand therefor, to the collector of the district where the manufacture is to be carried on, a statement in duplicate, subscribed under oath, setting forth the place, and

Statement
Form 36.

if in a city, the street and number of the street, where the manufacture is to be carried on; the number of cutting-machines, presses, snuff-mills, hand-mills, or other machines; the name, kind, and quality of the article manufactured or proposed to be manufactured; and when the same is manufactured by him as agent for any other person, or to be sold and delivered to any other person under a special contract, the name and residence and business or occupation of the person for whom the said article is to be manufactured, or to whom it is to be delivered; and he shall give a bond, to be approved by the collector of the district, in the sum of not less than two thousand nor more than twenty thousand dollars, to be fixed by the collector of the district, according to the quantum of business proposed to be done by the manufacturer, with right of appeal by the manufacturer to the Commissioner of Internal Revenue in respect to the amount of said bond, conditioned that he shall not engage in any attempt, by himself or by collusion with others, to defraud the government of any tax on his manufactures; that he shall render truly and completely all the returns, statements, and inventories prescribed by law or regulations; that whenever he adds to the number of cutting-machines, presses, snuff-mills, hand-mills, or other mills or machines as aforesaid, he shall immediately give notice thereof to the collector of the district; that he shall stamp, in accordance with law, all tobacco and snuff manufactured by him before he removes any part thereof from the place of manufacture; that he shall not knowingly sell, purchase, expose, or receive for sale, any manufactured tobacco or snuff which has not been stamped as required by law; and that he shall comply with all the requirements of law relating to the manufacture of tobacco or snuff. Additional sureties may be required by the collector from time to time.

Bond Form 40.

And every manufacturer shall obtain a certificate from the collector of the district, who is hereby directed to issue the same, setting forth the kind and number of machines, presses, snuff mills, hand mills, or other mills and machines as aforesaid; which certificate shall be posted in a conspicuous place within the manufactory.

Certificate Form 41.

And every tobacco-manufacturer who neglects or refuses to obtain such certificate, or to keep the same posted as hereinbefore provided, shall be fined not less than one hundred dollars nor more than five hundred dollars. And every person who manufactures tobacco or snuff of any description without first giving bond, as herein required, shall be fined not less than one thousand dollars nor more than five thousand dollars, and imprisoned for not less than one nor more than five years.

Penalties.

The liability of the sureties on the bond of a manufacturer of tobacco, given in pursuance of this section, does not cease upon the expiration of his "license" as such manufacturer.

No provision for canceling bonds of manufacturers after they have gone out of business. (T. D. 648.)

Revenue officers are not required to give notice of the expiration of a manufacturer's "license." It is a matter within his knowledge, and of which he must take notice at his peril. (United States v. Truesdell, 2 Bond, 78; 5 Int. Rev. Rec., 102; Fed. Cas. No. 16, 543.)

The manufacture and sale at retail of cigars and tobacco can not be lawfully carried on at the same time and at the same place. (16 Op. Atty. Gen., 89; 24 Int. Rev. Rec., 227.)

Use of abbreviation "Co." for "Company" does not invalidate a bond, and a bond so signed is legally binding upon principals and sureties. (T. D. 1660.)

Bond forms to be accompanied by record cards. (T. D. 2284.)

Sign to be put up by manufacturer; penalty for omission.

SEC. 3356. Every manufacturer of tobacco and snuff shall place and keep on the side or end of the building wherein his business is carried on, so that it can be distinctly seen, a sign, with letters thereon not less than three inches in length, painted in oil-colors or gilded, giving his full name and business. And every person who neglects to comply with the requirements of this section shall be fined not less than one hundred dollars or more than five hundred dollars.

Sign must be in English language. (Regulations No. 8, p. 36.)

Record of manufacturers of tobacco and snuff to be kept by collector.

SEC. 3357. [*Amended by sec. 33, act of October 1, 1890 (26 Stat., 620).*] Every collector shall keep a record, in a book or books provided for that purpose, to be open to the inspection of only the proper officers of internal revenue, including deputy collectors and internal-revenue agents, of the name and residence of every person engaged in the manufacture of tobacco or snuff in his district, the place where such manufacture is carried on, and the number of the manufactory; and he shall enter in said record, under the name of each manufacturer, a copy of every inventory required by law to be made by such manufacturer, and an abstract of his monthly returns; and he shall cause the several manufactories of tobacco or snuff in his district to be numbered consecutively, which numbers shall not be thereafter changed, except for reasons satisfactory to himself and approved by the Commissioner of Internal Revenue.

Record 13.

Annual inventory of manufacturer.

Form 70a.

SEC. 3358. Every person now or hereafter engaged in the manufacture of tobacco or snuff shall make and deliver to the collector of the district a true inventory, in such form as may be prescribed by the Commissioner of Internal Revenue, and verified by his own oath, of the quantity of each of the different kinds of tobacco, snuff-flour, snuff, stems, scraps, clippings, waste, tin foil, licorice, sugar, gum, and other materials held or owned by him on the first day of January of each year, or at the time of commencing and at the time of concluding business, if before or after the first of January; setting forth what portions of said goods and materials, and what

kinds were manufactured and produced by him, and what was purchased from others. The collector shall make personal examination of the stock sufficient to satisfy himself as to the correctness of the inventory, and shall verify the fact of such examination by oath, to be indorsed on or affixed to the inventory.

And every such person shall keep a book or books, the forms of which shall be prescribed by the Commissioner of Internal Revenue, and enter therein daily an accurate account of all the articles aforesaid purchased by him, the quantity of tobacco, snuff, and snuff-flour, stems, scraps, clippings, waste, tin-foil, licorice, sugar, gum, and other material, of whatever description, manufactured, sold, consumed, or removed for consumption or sale, or removed from the place of manufacture in bond, and to what district removed; also the number of net pounds of lumps of plug tobacco made in the lump room, and the number of packages and pounds thereof produced in the press-room each day. And he shall, on or before the tenth day of each month, furnish to the collector a true and complete abstract from such book, verifying the same by his oath, of all such purchases, sales, and removals made during the month next preceding.

Books. Form
No. 74.

Monthly ab-
stracts. Form
No. 62.

And whenever any such person refuses or willfully neglects to deliver the inventory, or keep the account, or furnish the abstract aforesaid, he shall be fined not less than five hundred dollars nor more than five thousand dollars, and imprisoned not less than six months nor more than three years.

Penalty.

Case involving the forfeiture of the tobacco factory of C. H. Lillenthal, before Judge Blatchford and a jury. (U. S. district court, southern district of New York; 18 Int. Rev. Rec., 158.)

Returns of manufacturers of tobacco and cigars: A manufacturer may employ, under power of attorney, a person to prepare his returns, inventories, etc., but the returns and inventories must be verified by the oath of the manufacturer. (T. D. 1039, T. D. 1047.)

Annual inventories. (T. D. 2583.)

Instructions as to inventory on January 1, 1920, and verification thereof by collectors or their deputies. (T. D. 2955.)

Instructions to collectors regarding annual inventories to be made by cigar and tobacco manufacturers. (T. Ds. 1733, 1895, 2057, 2259, 2390.)

Monthly abstracts; form to be used. (T. D. 2957.)

SEC. 3244. [*Sixth subsection, as amended by sec. 14, act of March 1, 1879 (20 Stat. 327), and act of March 3, 1883 (22 Stat. 488).* * * * Every person shall be regarded as a dealer in leaf tobacco whose business it is, for himself or on commission, to sell, or offer for sale, or consign for sale on commission, leaf tobacco.

Dealers in leaf
tobacco defined.

Dealers in leaf tobacco shall sell only to other dealers and to manufacturers of tobacco, snuff, or cigars, and to such persons as are known to be purchasers of leaf tobacco for export:

Restriction of
sales by dealers
in leaf tobacco.

Provided, It shall be lawful for any licensed manufacturer of cigars to purchase leaf tobacco of any licensed dealer or other licensed manufacturer in quantities less than the original package, for use in his own manufactory exclusively.

Special-tax provision repealed by section 26, act of October 1, 1890.

Special tax again imposed by section 4, act of June 13, 1898. (30 Stat., 450.)

Again repealed by act of April 12, 1902, sec. 7 (32 Stat., 97).

Instructions as to disposition of leaf tobacco on hand April 1, 1919. (T. D. 2814.)

Requirement as to registry.

SEC. 26. [Act of October 1, 1890 (26 Stat., 567), (Supp. R. S., vol. 1, 862).] * * * Every such dealer in leaf tobacco, * * * manufacturer and peddler shall, however, register with the collector of the district his name, or style, place of residence, trade, or business, and the place where such trade or business is to be carried on, the same as though the tax had not been repealed, and a failure to register as herein required shall subject such person to a penalty of fifty dollars.

Penalty for failure to register (T. D. 834, T. D. 1612).

Regulations as to registry. (T. Ds. 2420, 2485, 2947.)

Dealers in leaf tobacco to render statement of sales when demanded.

SEC. 3359. It shall be the duty of any dealer in leaf tobacco, or in any material used in manufacturing tobacco or snuff, on demand of any officer of internal revenue, to render a true and complete statement, under oath, of the quantity and amount of such leaf-tobacco or materials sold or delivered to any person named in such demand, and in case of refusal or neglect to render such statement, or if there is cause to believe such statement to be incorrect or fraudulent, the collector shall make an examination of persons, books, and papers, in the manner provided in relation to frauds and evasions.

Examination of persons, books, and papers.

Sections 3173, page 104, and act of August 15, 1876, page 93.

Leaf-tobacco dealers' books.

SEC. 3360. [Amended by sec. 704, act of February 24, 1919 (40 Stat., 1057).] (a) Every dealer in leaf tobacco shall file with the collector of the district in which his business is carried on, a statement in duplicate, subscribed under oath, setting forth the place, and, if in a city, the street and number of the street, where his business is to be carried on, and the exact location of each place where leaf tobacco is held by him on storage, and whenever he adds to or discontinues any of his leaf tobacco storage places, he shall give immediate notice to the collector of the district in which he is registered.

Bonds.

Every such dealer shall give a bond with surety, satisfactory to, and to be approved by, the collector of the district, in such penal sum as the collector may require, not less than \$500; and a new bond may be required in the discretion of the collector or under instructions of the Commissioner.

Every such dealer shall be assigned a number by the collector of the district, which number shall appear in every inventory, invoice and report rendered by the dealer, who shall also obtain certificates from the collector of the district setting forth the place where his business is carried on and the places designated by the dealer as the places of storage of his tobacco, which certificates shall be posted conspicuously within the dealer's registered place of business, and within each designated place of storage.

Dealers' numbers.

(b) Every dealer in leaf tobacco shall make and deliver to the collector of the district a true inventory of the quantity of the different kinds of tobacco held or owned, and where stored by him, on the first day of January of each year, or at the time of commencing and at the time of concluding business, if before or after the first day of January, such inventory to be made under oath and rendered in such form as may be prescribed by the Commissioner.

Inventories.

Every dealer in leaf tobacco shall render such invoices and keep such records as shall be prescribed by the Commissioner, and shall enter therein, day by day, and upon the same day on which the circumstance, thing or act to be recorded is done or occurs, an accurate account of the number of hogsheads, tierces, cases and bales, and quantity of leaf tobacco contained therein, purchased or received by him, on assignment, consignment, for storage, by transfer or otherwise, and of whom purchased or received, and the number of hogsheads, tierces, cases and bales, and the quantity of leaf tobacco contained therein, sold by him, with the name and residence in each instance of the person to whom sold, and if shipped, to whom shipped, and to what district; such records shall be kept at his place of business at all times and preserved for a period of two years, and the same shall be open at all hours for the inspection of any internal-revenue officer or agent.

Invoices and records.

Every dealer in leaf tobacco on or before the tenth day of each month, shall furnish to the collector of the district a true and complete report of all purchases, receipts, sales and shipments of leaf tobacco made by him during the month next preceding, which report shall be verified and rendered in such form as the Commissioner, with the approval of the Secretary, shall prescribe.

Reports.

(c) Sales or shipments of leaf tobacco by a dealer in leaf tobacco shall be in quantities of not less than a hogshead, tierce, case, or bale, except loose leaf tobacco comprising the breaks on warehouse floors, and except to a duly registered manufacturer of cigars for use in his own manufactory exclusively.

Quantity in sales or shipments.

Dealers in leaf tobacco shall make shipments of leaf tobacco only to other dealers in leaf tobacco, to registered manufacturers of tobacco, snuff, cigars or cigarettes, or for export.

Shipments made to whom.

Tax in case of
law violations.

(d) Upon all leaf tobacco sold, removed or shipped by any dealer in leaf tobacco in violation of the provisions of subdivision (c), or in respect to which no report has been made by such dealer in accordance with the provisions of subdivision (b), there shall be levied, assessed, collected and paid a tax equal to the tax then in force upon manufactured tobacco, such tax to be assessed and collected in the same manner as the tax on manufactured tobacco.

Penalties.

(e) Every dealer in leaf tobacco

(1) who neglects or refuses to furnish the statement, to give bond, to keep books, to file inventory or to render the invoices, returns or reports required by the Commissioner, or to notify the collector of the district of additions to his places of storage; or

(2) who ships or delivers leaf tobacco, except as herein provided; or

(3) who fraudulently omits to account for tobacco purchased, received, sold, or shipped; shall be fined not less than \$100 or more than \$500, or imprisoned not more than one year, or both.

Farmers.

(f) For the purposes of this section a farmer or grower of tobacco shall not be regarded as a dealer in leaf tobacco in respect to the leaf tobacco produced by him.

Statistics of leaf tobacco, page 394.

Instructions with reference to disposition of leaf tobacco on hand April 1, 1919. (T. D. 2814.)

Regulations as to statement, bond, inventories, reports, etc. (T. D. 2818.) Scale of penal sums of bonds revised. (T. D. 2911.)

Regulations concerning statement and bond to be filed and certificates to be obtained from collector, keeping of books, rendering of inventories, etc. (T. D. 2947.)

Leaf dealers to report in Book 59 factory numbers of manufacturers to whom sales are made. (T. D. 2025.)

SEC. 3361. (*Repealed.*) See page 372.

SEC. 34. [*Act of August 5, 1909 (36 Stat., 110).*] That the provisions of sections thirty, thirty-one, thirty-two, and thirty-three of this Act shall not take effect until July first, nineteen hundred and ten.

Relates to sections 3362, 3368, 3392, and 3394.

SEC. 3362. [*Amended by sec. 30, act of August 5, 1909 (36 Stat., 108), and sec. 700 (b), act of February 24, 1919 (40 Stat., 1057).*] All manufactured tobacco shall be put up and prepared by the manufacturer for sale, or removal for sale or consumption, in packages of the following description and in no other manner:

Packages des-
ignated.

All smoking tobacco, snuff, fine-cut chewing tobacco, all cut and granulated tobacco, all shorts, the refuse of fine-cut chewing, which has passed through a riddle of thirty-six meshes to the square inch, and all refuse scraps, clippings, cuttings, and sweepings of tobacco, and all other kinds of tobacco not otherwise provided for, in packages containing one-eighth of an ounce, three-eighths of an ounce, and further packages with a difference between

each package and the one next smaller of one-eighth of an ounce up to and including two ounces, and further packages with a difference between each package and the one next smaller of one-fourth of an ounce up to and including four ounces, and packages of five ounces, six ounces, seven ounces, eight ounces, ten ounces, twelve ounces, fourteen ounces, and sixteen ounces: *Provided*. That snuff may, at the option of the manufacturer, be put up in bladders and in jars containing not exceeding twenty pounds.

Snuff.

All cavendish, plug, and twist tobacco, in wooden packages not exceeding two hundred pounds net weight.

Cavendish, plug, and twist.

And every such wooden package shall have printed or marked thereon the manufacturer's name and place of manufacture, the registered number of the manufactory, and the gross weight, the tare, and the net weight of the tobacco in each package: *Provided*. That these limitations and descriptions of packages shall not apply to tobacco and snuff transported in bond for exportation and actually exported: *And provided further*, That perique tobacco, snuff-flour, fine-cut shorts, the refuse of fine cut chewing tobacco, refuse scraps, clippings, cuttings, and sweepings of tobacco, may be sold in bulk as material, and without the payment of tax, by one manufacturer directly to another manufacturer, or for export, under such restrictions, rules, and regulations as the Commissioner of Internal Revenue may prescribe: *And provided further*, That wood, metal, paper, or other materials may be used separately or in combination for packing tobacco, snuff, and cigars, under such regulations as the Commissioner of Internal Revenue may establish.

Marking.

Exports accepted.

Sales of perique, etc., in bulk free of tax.

Composition of packages.

Regulations. (T. D. 2813.)

Congress may prescribe any rule or regulation which is not in itself unreasonable, relative to the manufacture and handling of tobacco or cigars. (*Felsenheld v. United States*, 186 U. S., 128, affirming 103 Fed., 453.)

Tobacco and snuff must be put up by the manufacturer in prescribed packages. (*United States v. 288 Packages of Merry World Tobacco*, 108 Fed., 453.)

Section 3362 was amended by section 14, act of March 1, 1879 (20 Stat., 327), and act of January 9, 1883 (22 Stat., 401), section 3, act of June 13, 1898 (30 Stat., 449), act of July 1, 1902 (32 Stat., 714), and section 30, act of August 5, 1909 (36 Stat., 108).

SEC. 3363. [*Amended by sec. 31, act of October 1, 1890 (26 Stat., 567).*] No manufactured tobacco shall be sold or offered for sale unless put up in packages and stamped as prescribed in this chapter, except at retail by retail dealers from the packages authorized by section thirty-three hundred and sixty-two of the Revised Statutes: and every person who sells or offers for sale any snuff or any kind of manufactured tobacco not so put up in packages and stamped shall be fined not less than five hundred dollars nor more than five thousand dollars,

Tobacco and snuff to be sold only in prescribed packages; penalty; exception.

and imprisoned not less than six months nor more than two years.

United States v. Jenkinson, 15 Fed., 903.

Caution label.

SEC. 3364. [*Amended by sec. 5, act of March 3, 1883 (22 Stat., 488).*] Every manufacturer of tobacco or snuff shall, in addition to all other requirements of this title relating to tobacco, print on each package, or securely affix, by pasting, on each package containing tobacco or snuff manufactured by or for him, a label, on which shall be printed * * * the number of the manufactory, the district and State in which it is situated, and these words:

NOTICE.—The manufacturer of this tobacco has complied with all requirements of law. Every person is cautioned, under the penalties of law, not to use this package for tobacco again.

Penalty.

Every manufacturer of tobacco who neglects to print on or affix such label to any package containing tobacco made by or for him, or sold or offered for sale by or for him, and every person who removes any such label so affixed from any such package, shall be fined fifty dollars for each package in respect to which such offense shall be committed.

SEC. 3365. (*Obsolete.*)

Purchasing tobacco not branded or stamped; penalty.

SEC. 3366. Every person who purchases, or receives for sale, any manufactured tobacco or snuff which has not been branded or stamped according to law, shall be liable to a penalty of fifty dollars for each offense.

Buying tobacco from manufacturer who has not paid special tax.

SEC. 3367. Every person who purchases, or receives for sale, any manufactured tobacco or snuff from any manufacturer who has not paid the special tax, shall be liable for each offense to a penalty of one hundred dollars, and to a forfeiture of all the articles aforesaid so purchased or received, or of the full value thereof.

Rates of tax.—Manufactured tobacco and snuff.

SEC. 3368. [*Amended by sec. 31, act of August 5, 1909 (36 Stat., 109).*] Upon tobacco and snuff manufactured and sold, or removed for consumption or use, there shall be levied and collected the following taxes:

Snuff.

On snuff, manufactured of tobacco or any substitute for tobacco, ground, dry, damp, pickled, scented, or otherwise, of all descriptions, when prepared for use, a tax of eight cents per pound. And snuff flour, when sold, or removed for use or consumption, shall be taxed as snuff, and shall be put up in packages and stamped in the same manner as snuff.

Chewing and smoking.

On all chewing and smoking tobacco, fine-cut, caven-dish, plug or twist, cut or granulated, of every description; on tobacco twisted by hand or reduced into a condition to be consumed, or in any manner other than the ordinary mode of drying and curing, prepared for sale or consumption, even if prepared without the use of any machine or instrument, and without being pressed or sweetened; and on all fine-cut shorts and refuse scraps,

clippings, cuttings, and sweepings of tobacco, a tax of eight cents per pound.

This is an excise tax, and Congress has the power to increase it, at least while the property is held for sale, and before it has passed into the hands of the consumer. (*Patton v. Brady*, 184 U. S., 608; additional tax of 3 cents per pound on tobacco in the hands of dealers imposed by sec. 3, act of June 13, 1898).

Section 3368 was amended by section 30, act of October 1, 1890 (26 Stat., 619); section 3, act of June 13, 1898 (30 Stat., 448); section 3, act of March 2, 1901 (31 Stat., 939); section 3, act of April 12, 1902 (32 Stat., 96); and section 31, act of August 5, 1909 (36 Stat., 109), in effect July 1, 1910.

SEC. 701. [*Act of February 24, 1919 (40 Stat., 1057).*]
(a) That upon all tobacco and snuff manufactured in or imported into the United States, and hereafter sold by the manufacturer or importer, or removed for consumption or sale, there shall be levied, collected, and paid, in lieu of the internal-revenue taxes now imposed thereon by law, a tax of 18 cents per pound, to be paid by the manufacturer or importer thereof.

Rate of tax
on tobacco and
snuff manufac-
tured in or im-
ported into
United States.

Regulations. (T. D. 2813.)

SEC. 702. [*Act of February 24, 1919 (40 Stat., 1057).*]
That upon all the articles enumerated in section * * * 701, which were manufactured or imported, and removed from factory or customhouse on or prior to the date of the passage of this Act, and upon which the tax imposed by existing law has been paid, and which are, on the day after the passage of this Act, held by any person and intended for sale, there shall be levied, assessed, collected, and paid a floor tax equal to the difference between (a) the tax imposed by this Act upon such articles according to the class in which they are placed by this title, and (b) the tax imposed upon such articles by existing law other than section 403 of the Revenue Act of 1917.

Floor tax.

Returns and inventories of floor stock. (T. D. 2556.)

Regulations. (T. D. 2799.)

Bonds for extending payment. (T. D. 2798.)

Date of acts imposing tax on tobacco and rates of tax.

Tobacco.	Rate of tax per pound.	Acts impos- ing tax.	Acts repeal- ing tax.	Length of time rates were in force.
	<i>Cents.</i>			<i>Months.</i>
Smoking, made exclusively of stems....	2	July 1, 1862	Mar. 3, 1863	
Do.....	5	Mar. 3, 1863	June 30, 1864	1
Smoking, prepared with all the stems in.....	5	July 1, 1862	.....do.....	22
Cavendish, plug, twist, fine-cut, valued at not over 30 cents per pound.....	10	.....do.....	Mar. 3, 1863	6
Cavendish, plug, twist, fine-cut, valued at over 30 cents per pound.....	15	.....do.....	.....do.....	6
Cavendish, plug, twist, fine-cut, and manufactured tobacco of all descrip- tions, except smoking tobacco.....	15	Mar. 3, 1863	June 30, 1864	16

Date of acts imposing tax on tobacco and rates of tax—Continued.

Tobacco.	Rate of tax per pound.	Acts imposing tax.	Acts repealing tax.	Length of time rates were in force.
	Cents.			Months.
Snuff.....	20	July 1, 1862	June 30, 1864	22
Smoking, made exclusively of stems.....	15	June 30, 1864	July 13, 1866	25
Smoking, prepared with all the stems in, and fine-cut shorts.....	25	do.....	Mar. 3, 1865	9
Cavendish, plug, twist, etc., and fine-cut chewing.....	35	do.....	do.....	9
Snuff.....	35	do.....	do.....	9
Twisted by hand.....	30	Mar. 3, 1865	July 13, 1866	16
Smoking, of all kinds, not otherwise provided for.....	35	do.....	do.....	16
Cavendish, plug, twist, etc., and fine-cut chewing.....	40	do.....	do.....	16
Snuff.....	40	do.....	July 20, 1868	40
Smoking, not sweetened, stemmed, or butted.....	15	July 13, 1866	do.....	24
Twisted by hand, etc., and fine-cut shorts.....	30	do.....	do.....	24
Smoking, sweetened, stemmed, or butted.....	40	do.....	do.....	24
Chewing.....	40	do.....	do.....	24
Chewing, etc., smoking, etc., part of the stems removed.....	32	July 20, 1868	June 6, 1872	47
Smoking, exclusively of stems, etc.....	16	do.....	do.....	47
Snuff.....	32	do.....	Mar. 1, 1879	129
All kinds, except snuff, cigars, cheroots, and cigarettes.....	20	June 6, 1872	Mar. 3, 1875	32
Do.....	24	Mar. 3, 1875	Mar. 1, 1879	50
Do.....	16	Mar. 1, 1879	Mar. 3, 1883	48
Do.....	8	Mar. 3, 1883	Oct. 1, 1890	91
Smoking, and manufactured tobacco and snuff.....	6	Oct. 1, 1890	June 13, 1898	90
Manufactured tobacco and snuff.....	12	June 13, 1898	Apr. 12, 1902	49
Do.....	6	Apr. 12, 1902	Aug. 5, 1909	96
Do.....	8	Aug. 5, 1909	Oct. 3, 1917	86
Do.....	10½	Oct. 3, 1917	Feb. 24, 1919	16
Do.....	13	do.....	do.....	15
Do.....	18	Feb. 24, 1919	do.....	

The acts relating to the tax on manufactured tobacco and snuff went into operation immediately on their passage, except the following: Act of March 3, 1865, took effect April 1, 1865; act of July 13, 1866, took effect August 1, 1866; act of June 6, 1872, took effect July 1, 1872; act of March 1, 1879, took effect May 1, 1879; act of March 3, 1883, took effect May 1, 1883 (Rep. Com. Int. Rev., 1888, p. 136); act of October 1, 1890, took effect January 1, 1891; act of June 13, 1898, took effect June 14, 1898; act of March 2, 1901, which took effect July 1, 1901, allowed 20 per cent discount on all sales of tobacco and snuff stamps, virtually making rate 9.6 cents; act of April 12, 1902, took effect July 1, 1902; act of August 5, 1909, took effect July 1, 1910; act of October 3, 1917, took effect October 4, 1917, with respect to the half additional tax (10½ cents per pound), and November 2, 1917, with respect to the full additional tax (13 cents per pound); and act of February 24, 1919, became effective February 25, 1919.

The tax on manufactured tobacco and snuff first required to be paid by stamps. (Act of July 20, 1868.)

Stamps not of money value were required to be affixed by inspectors previous to that time. (Act of Mar. 3, 1865.)

The term "granulated tobacco" not synonymous with "snuff." (Venable v. Richards, 105 U. S., 636; 28 Int. Rev. Rec., 162; affirming 1 Hughes, 326; 22 Int. Rev. Rec., 299.)

Tobacco stamped and removed in forenoon of March 3, 1875, while the act of that date which increased the tax to

24 cents per pound was signed in the afternoon. The increase of tax did not apply in that case. (*Burgess v. Salmon*, 97 U. S., 381; 25 Int. Rev. Rec., 31; affirming 1 *Hughes* 356; 21 Int. Rev. Rec., 338.)

Manufactured tobacco shipped in bond from the manufactory and stored in an export bonded warehouse on the 14th of June, 1872, was subject to the tax of 32 cents per pound prescribed by the internal-revenue act of July 20, 1868. (*Jones v. Blackwell*, 100 U. S., 599; 26 Int. Rev. Rec., 114; 14 Op. Atty. Gen., 110; 16 Int. Rev. Rec., 77.)

Section 4 of "An act to repeal war revenue taxation, and for other purposes," approved April 12, 1902, provided for rebate of tax on tobacco held by manufacturers or dealers on which the higher rate had been paid. (*Hyams v. United States*, 189 Fed., 997; 146 Id., 15.)

The rules and regulations prescribed by the Commissioner were authorized and were not unreasonable. (*Powell v. United States*, 135 Fed., 881.)

SEC. 3369. The Commissioner of Internal Revenue shall cause to be prepared suitable and special stamps for the payment of the tax on tobacco and snuff, which shall indicate the weight and class of the article on which payment is to be made, and shall be affixed and canceled in the mode prescribed by the Commissioner of Internal Revenue, and stamps when used on any wooden package shall be canceled by sinking a portion of the same into the wood with a steel die, and also such export-stamps as are required by law. Such stamps shall be furnished to the collectors requiring them, and each collector shall keep at all times a supply equal in amount to three months' sale thereof, and shall sell the same only to the manufacturers of tobacco and snuff in their respective districts who have given bonds as required by law, and to owners or consignees of tobacco or snuff, upon the requisition of the proper custom-house officer having the custody of such tobacco or snuff; and to persons required by law to affix the same to tobacco or snuff on hand on the first day of January, eighteen hundred and sixty-nine. And every collector shall keep an account of the number, amount, and denominate values of stamps sold by him to each manufacturer or other person aforesaid:

Stamps, how prepared, furnished, and sold.

Provided, That such stamps as may be required to stamp tobacco, snuff, or cigars, sold under distraint by any collector of internal revenue, or for stamping any tobacco, snuff, or cigars which may have been abandoned, condemned, or forfeited, and sold by order of court or of any Government officer for the benefit of the United States, may, under such rules and regulations as the Commissioner of Internal Revenue shall prescribe, be used by the collector making such sale, or furnished by a collector to a United States marshal, or to any other Government officer making such sale for the benefit of the United States, without making payment for said stamps so used or delivered; and any revenue collector using or furnishing stamps in manner as aforesaid, on presenting vouchers satisfactory to the Commissioner of In-

Stamping for forfeited tobacco, snuff, or cigars.

ternal Revenue, shall be allowed credit for the same in settling his stamp account with the Department:

Destruction of
unusable to-
bacco and ci-
gars.

And provided further, That in case it shall appear that any abandoned, condemned, or forfeited tobacco, snuff, or cigars, when offered for sale, will not bring a price equal to the tax due and payable thereon, such goods shall not be sold for consumption in the United States; and upon application made to the Commissioner of Internal Revenue, he is authorized and directed to order the destruction of such tobacco, snuff, or cigars by the officer in whose custody and control the same may be at the time, and in such manner and under such regulations as the Commissioner of Internal Revenue may prescribe.

As to power to establish, alter, or change stamps, etc., see sections 3445 and 3446 as amended, page 589.

As to stamps on tobacco sold on distraint, etc., section 3458, page 597.

Tobacco used as samples must be stamped. (23 Int Rev. Rec., 29.)

As to the issue of duplicate stamps for restamping packages of tobacco from which the stamps have been lost or destroyed by accident, see sec. 3315, R. S., p. 270.

The term "tax," as used in the last proviso of section 3369, is not intended to include import duties; and cigarettes, when forfeited, may be sold and delivered when they bring enough to pay the internal-revenue tax, although they may not bring enough to pay that and the customs duties. (*United States v. 59 Demijohns Aguadiente and Four Barrels of Cigarettes*, 39 Fed., 401.) See Department Circular No. 34; T. D. 18984.)

Amending Regulations permitting cancellation of tobacco, snuff, cigar, and cigarette stamps by perforation, at option of manufacturer. (T. D. 1818.)

Tobacco manu-
factured by one
person for an-
other, or on
shares; stamps,
by whom affixed;
fraud in such
cases.

SEC. 3370. Whenever tobacco or snuff of any description is manufactured, in whole or in part, upon commission or shares, or the material from which any such articles are made, or are to be made, is furnished by one person and made and manufactured by another, or the material is furnished or sold by one person with an understanding or agreement with another that the manufactured article is to be received in payment therefor or for any part thereof, the stamps required by law shall be affixed by the actual maker or manufacturer before the article passes from the place of making or manufacturing. And in case of fraud on the part of either of said persons in respect to said manufacture, or of any collusion on their part with intent to defraud the revenue, such material and manufactured articles shall be forfeited to the United States; and each party to such fraud or collusion shall be deemed guilty of a misdemeanor, and be fined not less than one hundred dollars nor more than five thousand dollars, and imprisonment for not less than six months nor more than three years.

Penalty.

Assessment of
tax on tobacco,
snuff, and cigars
removed without
stamps.

SEC. 3371. [*Amended by sec. 14, act of March 1, 1879 (20 Stat., 327).*] Whenever any manufacturer of tobacco, snuff, or cigars, sells, or removes for sale or con-

sumption, any tobacco, snuff, or cigars, upon which a tax is required to be paid by stamps, without the use of the proper stamps, it shall be the duty of the Commissioner of Internal Revenue, within a period of not more than two years after such sale or removal, upon satisfactory proof, to estimate the amount of tax which has been omitted to be paid, and to make an assessment therefor, and certify the same to the collector. The tax so assessed shall be in addition to the penalties imposed by law for such sale or removal: *Provided, however,* That no such assessment shall be made until and after notice to the manufacturer of the alleged sale and removal to show cause against said assessment; and the Commissioner of Internal Revenue shall, upon a full hearing of all the evidence, determine what assessment, if any, should be made.

It is estimated that 25 pounds of leaf tobacco will make 1,000 cigars. (Regulations, No. 8, Rev., p. 58.)

Authority of Commissioner under the provisions of sections 3371 and 3396 to examine returns of cigar manufacturers and to treat deficiency in product based on the return of 1,000 cigars for every 25 pounds of tobacco as prima facie evidence of nonpayment of taxes. (United States v. Appel and Katencamp, 22 Int. Rev. Rec., 169; Fed. Cas. No. 14,462.)

SEC. 3372. Every manufacturer of tobacco or snuff who removes, otherwise than as provided by law, or sells, without the proper stamps denoting the tax thereon, or without having paid the special tax or given bond as required by law, any tobacco or snuff, or who makes false and fraudulent entries of manufactures or sales of tobacco or snuff, or makes false or fraudulent entries of the purchase or sales of leaf-tobacco, tobacco stems, or other material, or who affixes any false, forged, fraudulent, spurious, or counterfeit stamp, or imitation of any stamp, required by law, or any stamp required by law which has been previously used, to any box or package containing any tobacco or snuff, shall in addition to the penalties elsewhere provided by law for such offenses, forfeit to the United States all the raw material and manufactured or partly manufactured tobacco and snuff, and all machinery, tools, implements, apparatus, fixtures, boxes, and barrels, and all other materials which may be found in his possession, in his manufactory, or elsewhere.

Removing unlawfully, selling without stamps, or payment of tax, or giving bond, making false entries, etc.

Forfeiture.

The tobacco is forfeited for fraud of the manufacturer in the possession of an innocent purchaser. (United States v. 800 Caddies of Tobacco, 2 Bond 305; Fed. Cas. No. 15036.)

Raw material intended for fraudulent manufacture may be seized for forfeiture wherever found. (United States v. 16 Hogsheads Tobacco, 2 Bond 137; Fed. Cas. No. 16302.)

Sale of tobacco from original stamped packages. (T. D. 720.)

SEC. 3373. The absence of the proper stamp on any package of manufactured tobacco or snuff shall be notice to all persons that the tax has not been paid thereon, and

Absence of stamp to be evidence of nonpayment.

Forfeiture.

shall be prima-facie evidence of the non-payment thereof. And such tobacco or snuff shall be forfeited to the United States.

United States v. Keyes (10 Fed., 878).

United States v. 117 Packages of Plug Tobacco (10 Ben., 343; Fed. Cas. No. 15936).

Quantity of Tobacco (5 Ben., 407; 20 Fed. Cas. No. 11500).

Removing, except in proper packages, or without stamp; selling unlawfully, etc.

SEC. 3374. Every person who removes from any manufactory, or from any place where tobacco or snuff is made, any manufactured tobacco or snuff without the same being put up in proper packages, or without the proper stamp for the amount of tax thereon being affixed and canceled, as required by law; or, if the same be intended for export, without the proper export stamp being affixed; or who uses, sells, or offers for sale, or has in possession, except in the manufactory, or while in transfer under bond or a collector's permit, from any manufactory, store, or warehouse, to a vessel for exportation to a foreign country, any manufactured tobacco or snuff, without proper stamps for the amount of tax thereon being affixed and canceled; or who sells, or offers for sale, for consumption in the United States, or uses, or has in possession, except in the manufactory, or while in transfer under bond or a collector's permit, from any manufactory, store, or warehouse, to a vessel for exportation to a foreign country, any manufactured tobacco or snuff on which only the stamp marking the same for export has been affixed, shall for each such offense, respectively, be fined not less than one thousand dollars nor more than five thousand dollars, and be imprisoned not less than six months nor more than two years.

Penalty.

Affixing false stamps or stamps before used.

SEC. 3375. Every person who affixes to any package containing tobacco or snuff any false, forged, fraudulent, spurious, or counterfeit stamp, or a stamp which has been before used, shall be deemed guilty of a felony, and shall be fined not less than one thousand dollars nor more than five thousand dollars, and imprisoned not less than two years nor more than five years.

Penalty.

Stamps on emptied packages to be destroyed; buying, selling, or using same.

SEC. 3376. Whenever any stamped box, bag, vessel, wrapper, or envelope of any kind, containing tobacco or snuff, is emptied, the stamp or stamps thereon shall be destroyed by the person in whose hands the same may be. And every person who willfully neglects or refuses so to do shall, for each such offense, be fined fifty dollars, and imprisoned not less than ten days nor more than six months. And every person who sells or gives away, or who buys or accepts from another any such empty stamped box, bag, vessel, wrapper, or envelope of any kind, or the stamp or stamps taken from any such empty box, bag, vessel, wrapper, or envelope of any kind, shall, for each such offense, be fined one hundred dollars, and imprisoned for not less than twenty days and not more than one year. And every manufacturer or other person

Penalty.

who puts tobacco or snuff into any such box, bag, vessel, wrapper, or envelope, the same having been either emptied, or partially emptied, or who has in his possession, or affixes to any box or other package, any stamp which has been previously used, or who sells, or offers for sale, any box or other package of tobacco, snuff, or cigars, having affixed thereto any fraudulent, spurious, imitation, or counterfeit stamp, or stamp that has been previously used, or sells from any such fraudulently stamped box or package, or has in his possession any box or package as aforesaid, knowing the same to be fraudulently stamped, shall, for each such offense, be fined not less than one hundred dollars nor more than five hundred dollars, and imprisoned for not less than one year nor more than three years.

See section 3455, page 506.

Duty to destroy stamps. (United States v. Don Kee, 192 Fed., 733.)

SEC. 3377. [*Amended by sec. 14, act of March 1, 1879 (20 Stat., 327).*] All manufactured tobacco and snuff (not including cigars) imported from foreign countries, shall, in addition to the import duties imposed on the same, pay the tax imposed by law on like kinds of tobacco and snuff manufactured in the United States, and have the same stamps respectively affixed. Such stamps shall be affixed and canceled on all such articles so imported by the owner or importer thereof, while they are in the custody of the proper custom-house officers, and such articles shall not pass out of the custody of said officers until the stamps have been affixed and canceled. Such tobacco and snuff shall be put up in packages, as prescribed by law for like articles manufactured in the United States before the stamps are affixed; and the owner or importer shall be liable to all the penal provisions prescribed for manufacturers of tobacco and snuff manufactured in the United States. Whenever it is necessary to take any such articles, so imported, to any place for the purpose of repacking, affixing, and canceling such stamps, other than the public stores of the United States, the collector of customs of the port where they are entered shall designate a bonded warehouse to which they shall be taken, under the control of such customs officers as he may direct. And every officer of customs who permits any such articles to pass out of his custody or control without compliance by the owner or importer thereof with the provisions of this section relating thereto, shall be deemed guilty of a misdemeanor, and shall be fined not less than one thousand dollars nor more than five thousand dollars, and imprisoned not less than six months nor more than three years: *Provided*, That scraps, cuttings, and clippings of tobacco imported from any foreign country may, after the proper customs duty has been paid thereon, be withdrawn in

Imported tobacco and snuff.

Imported scraps, cuttings, and clippings of tobacco.

bulk without the payment of the internal-revenue tax, and transferred as material directly to the factory of a manufacturer of tobacco or snuff, or of a cigar manufacturer, under such restrictions and regulations as shall be prescribed by the Commissioner of Internal Revenue and approved by the Secretary of the Treasury.

Sale of internal-revenue stamps for tax payment of imported tobacco, snuff, etc. (T. D. 2500.)

SEC. 3378. (*Obsolete.*) Tobacco deemed as having been manufactured after July twentieth, eighteen hundred and sixty-eight.

SEC. 3379. (*Obsolete.*) Relates to tobacco, snuff, and cigars manufactured between July 20, 1868, and November 28, 1883.

SEC. 3380. (*Obsolete.*) Selling tobacco falsely represented to be made and tax paid before July 20, 1868.

Peddlers of tobacco defined.

SEC. 3244. [*Amended. Eleventh sub-section.*] Any person who sells or offers to sell and deliver manufactured tobacco, snuff, or cigars, traveling from place to place, in the town or through the country, shall be regarded as a peddler of tobacco: *Provided*, That manufacturers of, jobbers, and wholesale dealers in manufactured tobacco, snuff, cigars, and cigarettes, and the agents or salesmen of such manufacturers, jobbers, and wholesale dealers, traveling from place to place, in the town or through the country, and selling and delivering or offering to sell and deliver such products only to dealers, shall not be construed to be peddlers.

39 Stat., 740.

Under existing law peddlers of tobacco are not required to pay special tax.

Peddlers of tobacco.

SEC. 3381. [*Amended by sec. 28, act of October 1, 1890 (26 Stat., 618).*] Every peddler of tobacco, before commencing, or, if he has already commenced, before continuing to peddle tobacco, shall furnish to the collector of his district a statement accurately setting forth the place of his residence, and, if in a city, the street and number of the street where he resides, the State or States through which he proposes to travel; also whether he proposes to sell his own manufactures or the manufactures of others, and, if he sells for other parties, the person for whom he sells. He shall also give a bond in the sum of five hundred dollars, to be approved by the collector of the district, conditioned that he shall not engage in any attempt, by himself or by collusion with others, to defraud the Government of any tax on tobacco, snuff, or cigars; that he shall neither sell nor offer for sale any tobacco, snuff, or cigars, except in original and full packages, as the law requires the same to be put up and prepared by the manufacturer for sale, or for removal for sale or consumption, and except such packages of tobacco, snuff, and cigars as bear the manufacturer's label or caution notice, and his legal marks and brands, and

Statement, Form 95.

Bond. Form 111.

genuine internal-revenue stamps which have never before been used.

SEC. 3382. Every peddler of tobacco, snuff, or cigars, traveling with a wagon, shall affix and keep on the same, in a conspicuous place, a sign painted in oil-colors, or gilded, giving his full name, business, and collection district.

Peddlers of tobacco traveling with wagon.

SEC. 3383. [*Amended by sec. 29, act of October 1, 1890 (26 Stat., 618)*]. Every peddler of tobacco shall obtain a certificate from the collector of his collection district, who is hereby authorized and directed to issue the same, giving the name of the peddler, his residence, and the fact of his having filed the required bond; and shall on demand of any officer of internal revenue produce and exhibit his certificate. And whenever any peddler refuses to exhibit his certificate, as aforesaid, on demand of any officer of internal revenue, said officer may seize the horse or mule, wagon, and contents, or pack, bundle, or basket, of any person so refusing; and the collector of the district in which the seizure occurs may, on ten days' notice, published in any newspaper in the district, or served personally on the peddler, or at his dwelling-house, require such peddler to show cause, if any he has, why the horses or mules, wagons, and contents, pack, bundle, or basket so seized shall not be forfeited. In case no sufficient cause is shown, proceedings for the forfeiture of the property seized shall be taken under the general provisions of the internal-revenue laws relating to forfeitures. Any internal revenue agent may demand production of and inspect the collector's certificate for peddlers, and refusal or failure to produce the same, when so demanded, shall subject the party guilty thereof to a fine of not more than five hundred dollars and to imprisonment not more than twelve months.

Peddler to obtain and exhibit certificate, etc.

Forfeiture.

Penalty.

SEC. 3384. [*Amended by sec. 15, act of March 1, 1879 (20 Stat., 346)*]. Every person who is found peddling tobacco, snuff, or cigars, without having given the bond, or without having previously obtained the collector's certificate as herein provided, or who sells tobacco, snuff, or cigars otherwise than in original and full packages as put up by the manufacturer; or who has in his possession any internal-revenue stamp which has been removed from any box or other package of tobacco, snuff, or cigars, or any empty or partially emptied box or other package which has been used for tobacco, snuff, or cigars, the stamp or stamps on which have not been destroyed; or who fails to have affixed to his wagon, in a conspicuous place, a sign, painted in oil colors, or gilded, giving his full name, business, and collection district, shall, for each such offense, be fined not less than one hundred dollars nor more than five hundred dollars, or imprisoned not less than six months nor more than one year, or both, at the discretion of the court. And any collector or deputy col-

Peddling tobacco unlawfully; penalty.

lector finding such peddler in the act of offending as to either of the offenses mentioned in this section, may seize the horse or horses, mule or mules, wagon and contents, or pack, bundle, or basket, of any such person; and the collector shall thereupon proceed upon such seizure as provided in section thirty-three hundred and eighty-three.

Exportation of
manufactured to-
bacco, etc.

Export stamps.

Sec. 3385. [*Amended by act of June 9, 1880 (21 Stat., 167); amended and re-enacted by act of August 8, 1882 (22 Stat., 372); and amended by act of January 13, 1883 (22 Stat., 402).*] Manufactured tobacco, snuff, and cigars intended for immediate exportation may, after being properly inspected, marked, and branded, be removed from the manufactory in bond without having affixed thereto the stamps indicating the payment of the tax thereon. The removal of such tobacco, snuff, and cigars from the manufactory shall be made under such regulations, and after making such entries, and executing and filing with the collector of the district from which the removal is to be made such bonds and bills of lading, and giving such other additional security as may be prescribed by the Commissioner of Internal Revenue and approved by the Secretary of the Treasury. There shall be affixed to each package of tobacco, snuff, and cigars intended for immediate export, before it is removed from the manufactory, an engraved stamp indicative of such intention. Such stamp shall be provided and furnished to the several collectors as in the case of other stamps, and they shall account for the use of the same. When the manufacturer has made the proper entries, filed the bonds, and otherwise complied with the requirements of law and the regulations as herein provided, the collector shall issue to him a permit for the removal, accurately describing the tobacco, snuff, and cigars, to be shipped, the number and kinds of packages, the number of pounds, the marks and brands, the State and collection district from which the same are shipped, the number of the manufactory and the manufacturer's name, the port from which the said tobacco, snuff, and cigars are to be exported, and the route or routes over which the same are to be sent to the port of shipment. Upon the presentation to the collector of internal revenue of a detailed report from the inspectors of customs, and a certificate of the collector of customs at the port from which the goods are to be exported that the goods removed from the manufactory under bond and described in the permit of the collector of customs at the port from which the goods the said collector of customs, and that the said goods were duly laden on board of a foreign-bound vessel, naming the vessel, and that the said merchandise was entered on the outward manifest of said vessel, and that the said vessel and cargo were duly cleared from said port, and on the payment of the tax or deficiency, if any, the

bonds, which have been given or shall hereafter be required to be given under the provisions of this section shall be canceled. But when the goods are exported to an adjacent foreign territory, by vessel or otherwise, said bonds shall be canceled upon such proofs of exportation as may be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury.

Cancellation of
bonds.
Act of Jan.
18, 1882.

Every person who, with the intent to defraud the revenue laws of the United States, relands or causes to be relanded within the jurisdiction of the United States any manufactured tobacco, snuff, or cigars which have been shipped for exportation under the provisions of this act, without properly entering such tobacco, snuff, or cigars at the custom-house, and paying the proper customs and internal revenue tax thereon, or who receives such relanded tobacco, snuff, or cigars, and every person who aids or abets in such relanding or receiving such tobacco, snuff or cigars, shall, on conviction, be fined not exceeding five thousand dollars, or imprisoned not more than three years, and all tobacco, snuff, or cigars so relanded shall be forfeited to the United States.

Penalty for re-
landing tobacco
shipped for ex-
port.

See on this section *United States v. Allen*, 30 Fed., 100; *Ryan v. United States*, 19 Wall., 514.

Section 606 of the act of February 24, 1919, gives the Commissioner, with the approval of the Secretary, authority to discontinue the use of export stamps.

The only substantial change from the amended section made by the act of August 8, 1882, was striking out the following words relating to the export stamp: "And for the expense attending the providing and affixing thereof ten cents for each package so stamped shall be paid to the collector on making the entry for such transportation."

Requirement that the exportation stamp be affixed to packages of tobacco intended for exportation declared constitutional. (*Place v. Burgess*, 92 U. S., 372; 22 Int. Rev. Rec., 145. Decision affirmed in *Turpin v. Burgess*, 117 U. S., 504; 32 Int. Rev. Rec., 119.)

Persons proposing to manufacture tobacco and cigars exclusively for export required to qualify both as manufacturers of tobacco and as cigar manufacturers. Tobacco, cigars, and cigarettes manufactured exclusively for export may be packed in such quantity and in such kind of packages as desired. (T. D. 19124.)

SEC. 24. [*Act of February 8, 1875 (18 Stat., 307).*] That whenever any manufacturer of tobacco shall desire to withdraw the same from his factory for exportation under existing laws, such manufacturer may, at his option, in lieu of executing an export bond, as now provided by law, give a transportation bond, with sureties satisfactory to the collector of internal revenue, and under such rules and regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe, conditioned for the due delivery thereof on board ship at a port of exportation to be named therein; and in such case, on arrival of the tobacco at the port of export, the exporter or owner at that port shall

On withdrawal
of tobacco for ex-
portation, trans-
portation bond
may be taken.

Notice to collector of port.

Export entry.

Export bond.

Clearance certificate and inspector's report.

Cancellation of transportation bond.

Cancellation of export bond.

immediately notify the collector of the port of the fact, setting forth his intention to export the same, the name of the vessel upon which the same is to be laden, and the port to which it is intended to be exported. He shall, after the quantity and description of tobacco have been verified by the inspector, file with the collector of the port an export entry verified by affidavit. He shall also give bond to the United States, with at least two sureties, satisfactory to the collector of customs, conditioned that the principal named in said bond will export the tobacco as specified in said entry, to the port designated in said entry, or to some other port without the jurisdiction of the United States. And upon the lading of such tobacco, the collector of the port, after proper bonds for the exportation of the same have been completed by the exporter or owner at the port of shipment thereof, shall transmit to the collector of internal revenue of the district from which the said tobacco was withdrawn for exportation, a clearance certificate and a detailed report of the inspector; which report shall show the quantity and description of manufactured tobacco, and the marks thereof. Upon the receipt of the certificate and report, and upon payment of tax on deficiency, if any, the collector of internal revenue shall cancel the transportation bond.

The bonds required to be given for the landing at a foreign port of such manufactured tobacco shall be canceled upon the presentation of satisfactory proof and certificates that said tobacco has been landed at the port of destination named in the bill of lading, or any other port without the jurisdiction of the United States, or upon satisfactory proof that after shipment the same was lost at sea without fault or neglect of the owner or exporter thereof.

As bonds given under section 3385, as amended, are canceled on proof of clearance of the articles therein named for a foreign country, exporters do not now avail themselves of the provisions of this section.

Exportation by parcel post. (Regulations No. 29, Supp. No. 1; T. D. 1834; T. D. 1858.)

To constitute exportation the owner of goods should intend that they should not only be landed in a foreign port, but that they should enter into the commerce of some foreign country. (27 Op. Atty. Gen., 113; see also T. D. 36, 932.)

Regulations authorized.

SEC. 1. [*Act of August 4, 1886 (24 Stat., 218).*] That manufactured tobacco, snuff, and cigars may be removed for export to a foreign country without payment of tax, under such regulations, and the making of such entries, and the filing of such bonds and bills of lading as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe.

Regulations No. 20 revised.

SEC. 1. [*Paragraph 500, act of August 5, 1909 (36 Stat., 73); reenacted sec. 1, par. 404, act of October 3,*

1913 (38 Stat., 154).] * * * *And provided further,* That when manufactured tobacco which has been exported without payment of internal-revenue tax shall be re-imported it shall be retained in the custody of the collector of customs until internal-revenue stamps in payment of the legal duties shall be placed thereon.

Re-imported tobacco to be retained at customhouse until tax is paid and stamps affixed.

SEC. 3386. [*Amended by sec. 16, act of March 1, 1879 (20 Stat., 327).*] There shall be an allowance of drawback on tobacco, snuff, and cigars on which the tax has been paid by suitable stamps affixed thereto before removal from the place of manufacture, when the same are exported, equal in amount to the value of the stamps found to have been so affixed; the evidence that the stamps were so affixed, and the amount of tax so paid, and of the subsequent exportation of the said tobacco, snuff, and cigars, to be ascertained under such regulations as shall be prescribed by the Commissioner of Internal Revenue, and approved by the Secretary of the Treasury. Any sums found to be due under the provisions of this section shall be paid by the warrant of the Secretary of the Treasury on the Treasurer of the United States out of any money arising from internal duties not otherwise appropriated:

Drawback on exported tobacco, snuff, and cigars.

Provided, That no claim for an allowance of drawback shall be entertained or allowed until a certificate from the collector of customs at the port from which the goods have been exported, or other evidence satisfactory to the Commissioner of Internal Revenue, has been furnished, that the stamps affixed to the tobacco, snuff, or cigars entered and cleared for export to a foreign country were totally destroyed before such clearance; nor until the claimant has filed a bond, with good and sufficient sureties, to be approved by the collector of the district from which the goods are shipped, in a penal sum double the amount of the tax for which said claim is made, that he will procure, within a reasonable time, evidence satisfactory to the Commissioner of Internal Revenue that said tobacco, snuff, or cigars have been landed at any port without the jurisdiction of the United States, or that after shipment the same were lost at sea, and have not been relanded within the limits of the United States.

Certificate and bond to be filed.

Instructions as to drawback on exported tobacco, snuff and cigars. (T. Ds. 2273, 2330.)

SEC. 25. [*Act of February 8, 1875 (18 Stat., 307).*] That if any person or persons shall fraudulently claim or seek to obtain an allowance or drawback of duties on any manufactured tobacco, or shall fraudulently claim any greater allowance or drawback thereon than the duty actually paid, such person or persons shall forfeit triple the amount wrongfully or fraudulently claimed or sought to be obtained, or the sum of five hundred dollars, at the

Fraudulently claiming drawback on manufactured tobacco.

Punishment.

election of the Secretary of the Treasury, to be recovered as in other cases of forfeiture provided for in the internal revenue laws.

See also penalty provided by section 3443, page 588.

An act to authorize the Director of the Census to collect and publish additional statistics of tobacco.

Statistics of
leaf tobacco.

SEC. 1. [*Act of April 30, 1912 (37 Stat., 107).*] That the Director of the Census be, and he is hereby, authorized and directed to collect and publish, in addition to the tobacco reports now being made by him, statistics of the quantity of leaf tobacco in all forms in the United States in the possession of all persons who are dealers or manufacturers, other than the original growers of tobacco, to be summarized and returned by the holder to the Director of the Census as of the dates of October first and April first of each year, provided that the Director of the Census shall not be required to collect statistics of leaf tobacco from any manufacturer of tobacco who in the preceding calendar year, according to the returns to the Commissioner of Internal Revenue, manufactured less than fifty thousand pounds of tobacco, or from any manufacturer of cigars who during the preceding calendar year manufactured less than two hundred and fifty thousand cigars, or from any manufacturer of cigarettes who during the preceding calendar year manufactured less than one million cigarettes, or from any dealer in leaf tobacco who, on the average, had less than fifty thousand pounds in stock at the ends of the four quarters of the preceding calendar year, and every manufacturer of tobacco who, in the preceding calendar year, according to the returns of the Commissioner of Internal Revenue, manufactured more than fifty thousand pounds of tobacco, and every manufacturer of cigars who, during the preceding calendar year, manufactured more than two hundred and fifty thousand cigars, and every manufacturer of cigarettes who, during the preceding calendar year, manufactured more than one million cigarettes, and every dealer in or manufacturer of leaf tobacco who, on an average, during the preceding calendar year, had more than fifty thousand pounds in stock, at the ends of the four quarters of the preceding calendar year, shall, under oath, make written reports of the amounts held by them, as herein provided.

* * * * *

SEC. 7. That the Director of the Census shall have access to the records of the Commissioner of Internal Revenue, for the purpose of obtaining the information herein required, and the Commissioner of Internal Revenue shall cooperate with the Director of the Census in effectuating the purposes and provisions of this act.

* * * * *

CHAPTER NINE.

CIGARS, CIGARETTES, ETC.

Sec.	Sec.
3244. Subsection 10. Manufacturers of cigars defined.	3397 (amended). Removal without properly boxing, stamping, or branding; using false stamps, etc.; cigars packed for export; penalty.
3387 (amended). Manufacturer's statement, bond, and certificate; cigarettes and cheroots held to cigars; penalty.	3398. Absence of stamp cause of forfeiture.
3388. Manufacturer's sign.	3399. Cigars manufactured on shares, commission, or contract, how stamped; fraud, penalty.
3389 (amended). Record of manufacturers.	3400. Forfeiture of property for selling etc., contrary to law, using false stamps, etc.
3390. Annual inventory, book, and monthly abstracts of manufacturer; penalty.	3401. (Obsolete.)
3391. Dealers in materials for cigars to make sworn statement; examination of books.	3402. Imported cigars to pay tax.
3392 (amended). How cigars and cigarettes to be put up and stamped; penalty.	3403. Cigars on hand after April 1, 1890. Selling imported cigars not packed and stamped as required by law; penalty.
3393 (amended). Caution notice; penalty.	3404. Purchasing cigars not branded or stamped; penalty.
3394 (amended). Tax on cigars and cigarettes.	3405. Buying cigars from manufacturer who has not paid special tax.
700. Act of February 24, 1919. Rate of tax on cigars and cigarettes manufactured in or imported into United States.	3406. Stamps on emptied cigar boxes to be destroyed; penalty. Destruction of emptied stamped cigar boxes; penalty.
702. (Same.) Floor tax.	IV. Par. M., act of October 3, 1913. Cigars manufactured from imported tobacco.
703. (Same.) Cigarette paper; bonds; records.	
3395. Stamps, how prepared, furnished, etc.	
3396. Commissioner to prescribe regulations.	

SEC. 3244. [*Amended. Tenth subsection*] * * * Manufacturers of cigars defined.

Every person whose business it is to make or manufacture cigars for himself, or who employs others to make or manufacture cigars, shall be regarded as a manufacturer of cigars. Every person whose business it is to make cigars for others, either for pay upon commission, on shares, or otherwise, from material furnished by others, shall be regarded as a cigar-maker. Every cigar-maker shall cause his name and residence to be registered, without previous demand, with the collector of the district in which such cigar-maker shall be employed; and every manufacturer of cigars employing any cigar-maker who shall have neglected or refused to make such registry shall be fined five dollars for each day that such cigar-maker so

Cigar-maker defined.
Registration.

offending, by neglect or refusal to register, shall be employed by him.

▼ The provision relative to registry of cigar-makers is virtually obsolete. The other provisions of the law on the same subject were stricken out by section 16, act of March 1, 1879 (20 Stat., 347), amending sections 3387, page 396 and 3389, page 397, and the omission to strike this out was evidently accidental.

Special tax provision repealed by act October 1, 1890.

Special tax again imposed by act June 13, 1898, and repealed by the act of April 12, 1902. (Sec. 5.)

Special tax imposed by section 700, act of February 24, 1919. (See p. 401.)

Manufacturer's
statement and
bond.

Statement.
Form No. 363.

Bond. Form
71.

Certificate.
Form No. 413.

SEC. 3387. [*Amended by sec. 35, act of October 1, 1890 (26 Stat., 620).*] Every person before commencing, or, if he has already commenced, before continuing, the manufacture of cigars, shall furnish, without previous demand therefor, to the collector of the district a statement in duplicate, under oath, setting forth the place, and, if in a city, the street and number of the street, where the manufacture is to be carried on; and when the same are to be manufactured for, or to be sold and delivered to, any other person, the name and residence and business or occupation of the person for whom they are to be manufactured, or to whom they are to be delivered; and shall give a bond, in conformity with the provisions of this Title, in such penal sum as the collector may require, not less than [one] hundred dollars, and the sum of said bond may be increased from time to time and additional sureties required, at the discretion of the collector, or under the instructions of the Commissioner of Internal Revenue. Said bond shall be conditioned that * * * he shall not engage in any attempt, by himself or by collusion with others, to defraud the Government of any tax on his manufactures; that he shall render correctly all the returns, statements, and inventories prescribed; that whenever he shall add to the number of cigar-makers employed by him he shall immediately give notice thereof to the collector of the district; that he shall stamp, in accordance with law, all cigars manufactured by him before he offers the same or any part thereof for sale, and before he removes any part thereof from the place of manufacture; that he shall not knowingly sell, purchase, expose, or receive for sale, any cigars which have not been stamped as required by law; and that he shall comply with all the requirements of law relating to the manufacture of cigars. Every cigar-manufacturer shall obtain from the collector of the district, who is hereby required to issue the same, a certificate setting forth the number of cigar-makers for which the bond has been given, and shall keep the same posted in a conspicuous place within the manufactory; and every cigar-manufacturer who neglects or refuses to obtain such certificate, or to keep the same posted as hereinbefore provided, shall be fined one hundred dollars.

And every person who manufactures cigars of any description, without first giving bond as herein required, shall be fined not less than one hundred dollars nor more than five thousand dollars, and imprisoned not less than three months nor more than five years.

Penalty.

Cigarettes and cheroots shall be held to be cigars under the meaning of this chapter.

Cigarettes and cheroots held to be cigars.

The place of manufacture should be kept separate and apart from the place of sale. (United States v. Neid, 13 Int. Rev. Rec., 28; Fed. Cas. No. 15, 860.)

A manufacturer of tobacco or cigars can not sell at retail at place of manufacture. (Ludloff v. United States, 108 U. S., 176; 29 Int. Rev. Rec., 125; 16 Op. Atty. Gen., 89; 24 Int. Rev. Rec., 227.)

A manufacturer can not retail cigars in his cigar factory. (Crisp v. Proud, 24 Int. Rev. Rec., 340; 4 Hughes 57; Fed. Cas. No. 3392.)

Where cigar manufacturers desire to voluntarily file a new bond, such bond, if approved by the collector, should be accepted, and the manufacturers' accounts closed under the old bond. Sureties on old bond released when a new bond is given. (T. D. 740.)

Bond of minor son of deceased manufacturer. (T. D. 792.)

Administrator must obtain consent of sureties to continue under bond of deceased. (T. D. 926.)

Consent of sureties necessary before factory can be enlarged or changed. (T. D. 964.)

SEC. 3388. Every cigar-manufacturer shall place and keep on the side or end of the building within which his business is carried on, so that it can be distinctly seen, a sign, with letters thereon not less than three inches in length, painted in oil-colors or gilded, giving his full name and business. Any person neglecting to comply with the requirements of this section shall on conviction, be fined not less than one hundred dollars nor more than five hundred dollars.

Manufacturer's sign.

Sign must be in English language. (Regulations No. 8, p. 48.)

SEC. 3389. [*Amended by sec. 34, act of October 1, 1890 (26 Stat., 620).*] Every collector shall keep a record, in a book provided for that purpose, to be open to the inspection of only the proper officers of internal-revenue, including deputy collectors and internal-revenue agents, of the name and residence of every person engaged in the manufacture of cigars in his district, the place where such manufacture is carried on, and the number of the manufactory; and he shall enter in said record, under the name of each manufacturer an abstract of his inventory and monthly returns; and he shall cause the several manufacturers of cigars in the district to be numbered consecutively, which number shall not thereafter be changed.

Record of manufacturers of cigars to be kept by collector.

Record 11.

SEC. 3390. Every person now or hereafter engaged in the manufacture of cigars shall make and deliver to the

Annual inventory, book entries, and monthly abstracts of manufacturer.
Form No. 70b.

Verification of inventory.

Form No. 73.

Form No. 72.

Penalty.

collector of the district a true inventory, in such form as may be prescribed by the Commissioner of Internal Revenue, of the quantity of leaf tobacco, cigars, stems, scraps, clippings, and waste, and of the number of cigar-boxes and the capacity of each box, held or owned by him on the first day of January of each year, or at the time of commencing and at the time of concluding business, if before or after the first of January; setting forth what portion and kinds of said goods were manufactured or produced by him, and what were purchased from others, and shall verify said inventory by his oath indorsed thereon. The collector shall make personal examination of the stock sufficient to satisfy himself as to the correctness of the inventory; and shall verify the fact of such examination by oath to be indorsed on the inventory. Every such person shall also enter daily in a book, the form of which shall be prescribed by the Commissioner of Internal Revenue, an accurate account of all the articles aforesaid purchased by him, the quantity of leaf-tobacco, cigars, stems, or cigar-boxes, of whatever description, manufactured, sold, consumed, or removed for consumption or sale, or removed from the place of manufacture; and shall, on or before the tenth day of each and every month, furnish to the collector of the district a true and accurate abstract from such book, verified by his oath, of all such purchases, sales, and removals made during the month next preceding. In case of refusal or willful neglect to deliver the inventory or keep the account, or furnish the abstract aforesaid, he shall be fined not less than five hundred dollars nor more than five thousand dollars, and imprisoned not less than six months nor more than three years.

Verification of returns. (T. D. 1646.) Inventory taken July 1, 1910. (T. D. 1631.)

Instructions as to inventories on January 1, 1920, and verification thereof by collectors or their deputies. (T. D. 2955.)

Instructions regarding preparation of accounts of manufacturers of cigars and cigarettes. (T. D. 1726.)

Instructions to collectors regarding annual inventories to be made by cigar and tobacco manufacturers. (T. Ds. 1733, 1895, 2057.)

Revised Form 72 to be used by manufacturers reporting for December, 1913, and thereafter. (T. D. 1925.)

Unstamped cigars and cigarettes removed as "smokers." (T. Ds. 1723, 1725, 1744.)

Monthly abstracts; forms to be used. (T. D. 2957.)

Dealers in material for to make statement, demanded. cigars sworn when

SEC. 3391. It shall be the duty of every dealer in leaf-tobacco or material used in manufacturing cigars, on demand of any officer of internal revenue, to render to such officer a true and correct statement, under oath, of the quantity and amount of such leaf-tobacco or materials sold or delivered to any person named in such demand; and in case of refusal or neglect to render such statement, or if there is cause to believe such statement to be incorrect or fraudulent, the collector shall make an examina-

tion of persons, books, and papers in the manner provided in this Title in relation to frauds and evasions. Examination of books.

See sections 3173, page 104; 3176, page 108.

Sec. 3392. [*Amended by sec. 32, act of October 1, 1890 (26 Stat., 619), by sec. 32, act of August 5, 1909 (36 Stat., 109), and by act of February 10, 1913 (37 Stat., 664).*]

All cigars weighing more than three pounds per thousand shall be packed in boxes not before used for that purpose containing, respectively, five, ten, twelve, thirteen, twenty-five, fifty, one hundred, two hundred, two hundred and fifty, or five hundred cigars each; and every person who sells, or offers for sale, or delivers, or offers to deliver, any cigars in any other form than in new boxes as above described, or who packs in any box any cigars in excess of or less than the number provided by law to be put in each box, respectively, or who falsely brands any box, or affixes a stamp on any box denoting a less amount of tax than that required by law, shall be fined for each offense not more than one thousand dollars, and be imprisoned not more than two years: *Provided*, That nothing in this section shall be construed as preventing the sale of cigars at retail by retail dealers from boxes packed, stamped and branded in the manner prescribed by law: *Provided further*, That each employee of a manufacturer of cigars shall be permitted to use, for personal consumption and for experimental purposes, not to exceed twenty-one cigars per week without the manufacturer of cigars being required to pack the same in boxes or to stamp or pay any internal-revenue tax thereon, such exemption to be allowed under such rules and regulations as the Secretary of the Treasury may prescribe: *And provided further*, That every manufacturer of cigarettes shall put up all the cigarettes that he manufactures or has manufactured for him and sells or removes for consumption or use, in packages or parcels containing five, eight, ten, fifteen, twenty, fifty, or one hundred cigarettes each, and shall securely affix to each of said packages or parcels a suitable stamp denoting the tax thereon, and shall properly cancel the same prior to such sale or removal for consumption or use, under such regulations as the Commissioner of Internal Revenue shall prescribe; and all cigarettes imported from a foreign country shall be packed, stamped, and the stamps canceled in like manner, in addition to the import stamp indicating inspection of the custom house before they are withdrawn therefrom.

Cigars.
New boxes required.

Penalty.

Provision.

Retail sales.

Cigarettes.

Packages required.

Imported cigarettes.

Cigars shall be put up in boxes properly stamped and branded with the number of the factory and number of the district and the State. (United States v. 76,125 Cigars, 18 Fed., 147; Jackson v. United States, 21 Fed., 35.)

Regulations governing use by cigar factory employees of tax-free cigars for personal consumption. (T. D. 1875; T. D. 1881.)

Cancellation of tobacco, snuff, cigar, and cigarette stamps. (Amended Regulations, No. 8.)

Perforations. (T. D. 1808.)

Label and notice on cigars.

SEC. 3393. [*Amended by sec. 16, act of March 1, 1879 (20 Stat. 327).*] Every manufacturer of cigars shall securely affix, by pasting on each box containing cigars manufactured by or for him, a label, on which shall be printed, besides the number of the manufactory and the district and State in which it is situated, these words:

NOTICE.—The manufacturer of the cigars herein contained has complied with all the requirements of law. Every person is cautioned not to use either this box for cigars again, or the stamp thereon again, nor to remove the contents of this box without destroying said stamp, under the penalty provided by law in such cases.

Penalty.

Every manufacturer of cigars who neglects to affix such label to any box containing cigars made by or for him, or sold or offered for sale by or for him, and every person who removes any such label, so affixed, from any such box, shall be fined fifty dollars for each box in respect to which such offense is committed.

Imprinting caution notice on cigar boxes (T. D. 1599).

Rates of tax.

Cigars.

Cigarettes.

Classification.

Stamps for new rate of tax.

Proviso. Denominations.

Restrictions on all packages.

SEC. 3394. [*Amended by sec. 33, act of August 5, 1909 (36 Stat., 110).*] Upon cigars and cigarettes which shall be manufactured and sold, or removed for consumption or sale, there shall be assessed and collected the following taxes, to be paid by the manufacturer thereof: On cigars of all descriptions made of tobacco or any substitute therefor and weighing more than three pounds per thousand, three dollars per thousand; on cigars, made of tobacco, or any substitute therefor, and weighing not more than three pounds per thousand, seventy-five cents per thousand; on cigarettes, made of tobacco, or any substitute therefor, and weighing more than three pounds per thousand, three dollars and sixty cents per thousand; on cigarettes made of tobacco, or any substitute therefor, and weighing not more than three pounds per thousand, one dollar and twenty-five cents per thousand: *Provided*, That all rolls of tobacco, or any substitute therefor, wrapped with tobacco, shall be classed as cigars; and all rolls of tobacco, or any substitute therefor, wrapped in paper or any substance other than tobacco, shall be classed as cigarettes.

And the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall provide dies and stamps for cigars weighing not more than three pounds per thousand; and for cigarettes at the rates of tax imposed by this section: *Provided*, That such stamps shall be in denominations of five, eight, ten, fifteen, twenty, fifty, and one hundred; and the laws and regulations governing the packing and removal for sale of cigarettes, and the affixing and canceling of the stamps on the packages thereof, shall apply to cigars weighing not more than three pounds per thousand.

No packages of manufactured tobacco, snuff, cigars, or cigarettes, prescribed by law, shall be permitted to have packed in, or attached to, or connected with them,

nor affixed to, branded, stamped, marked, written, or printed upon them, any paper, certificate, or instrument purporting to be or represent a ticket, chance, share or interest in, or dependent upon, the event of a lottery, nor any indecent or immoral picture, representation, print, or words; and any violation of the provisions of this paragraph shall subject the offender to the penalties and punishments provided by section thirty-four hundred and fifty-six of the Revised Statutes.

Lottery.

Penalty.

Section 3394 was amended by section 2, act of March 3, 1875 (18 Stat., 339); section 4, act of March 3, 1883 (22 Stat., 488); section 10, act of July 24, 1897 (30 Stat., 206); section 3, act of June 13, 1898 (30 Stat., 449); section 3, act of March 2, 1901 (31 Stat., 939); section 3, act of April 12, 1902 (32 Stat., 96); act of July 1, 1902, and section 33, act of August 5, 1909 (36 Stat., 110), taking effect July 1, 1910.

"Jumbo" cigars, or cigars of unusual size, are to be classified as manufactured tobacco. The fact that they could be smoked did not altogether determine their character. (*D'Estrinoz v. Gerker*, 43 Fed., 285.)

Inserts packed in statutory packages of tobacco, snuff, cigars, and cigarettes held to be violative of this section, relating to a lottery. (T. Ds. 1819, 2319.)

Forms for manufacturers' orders for stamps for cigars, cigarettes, etc. (T. D. 2411.)

SEC. 700. [*Act of February 24, 1919 (40 Stat., 1057).*]

(a) That upon cigars and cigarettes manufactured in or imported into the United States, and hereafter sold by the manufacturer or importer, or removed for consumption or sale, there shall be levied, collected, and paid under the provisions of existing law, in lieu of the internal-revenue taxes now imposed thereon by law, the following taxes, to be paid by the manufacturer or importer thereof—

Rate of tax
on cigars and
cigarettes manu-
factured in or
imported into
United States.

On cigars of all descriptions made of tobacco, or any substitute therefor, and weighing not more than three pounds per thousand, \$1.50 per thousand;

On cigars made of tobacco, or any substitute therefor, and weighing more than three pounds per thousand, if manufactured or imported to retail at not more than 5 cents each, \$4 per thousand;

If manufactured or imported to retail at more than 5 cents each and not more than 8 cents each, \$6 per thousand;

If manufactured or imported to retail at more than 8 cents each and not more than 15 cents each, \$9 per thousand;

If manufactured or imported to retail at more than 15 cents each and not more than 20 cents each, \$12 per thousand;

If manufactured or imported to retail at more than 20 cents each, \$15 per thousand;

On cigarettes made of tobacco, or any substitute therefor, and weighing not more than three pounds per thousand, \$3 per thousand;

Weighing more than three pounds per thousand, \$7.20 per thousand.

Retail price of cigars.

(b) Whenever in this section reference is made to cigars manufactured or imported to retail at not over a certain price each, then in determining the tax to be paid regard shall be had to the ordinary retail price of a single cigar.

Labels.

(c) The Commissioner may, by regulation, require the manufacturer or importer to affix to each box, package, or container a conspicuous label indicating the clause of this section under which the cigars therein contained have been tax-paid, which must correspond with the tax-paid stamp on such box or container.

Packages for cigarettes and small cigars.

(d) Every manufacturer of cigarettes (including small cigars weighing not more than three pounds per thousand) shall put up all the cigarettes and such small cigars that he manufactures or has manufactured for him, and sells or removes for consumption or sale, in packages or parcels containing five, eight, ten, twelve, fifteen, sixteen, twenty, twenty-four, forty, fifty, eighty, or one hundred cigarettes each, and shall securely affix to each of such packages or parcels a suitable stamp denoting the tax thereon and shall properly cancel the same prior to such sale or removal for consumption or sale under such regulations as the Commissioner, with the approval of the Secretary, shall prescribe; and all cigarettes imported from a foreign country shall be packed, stamped, and the stamps canceled in a like manner, in addition to the import stamp indicating inspection of the customhouse before they are withdrawn therefrom.

Stamps.

Regulations. (T. Ds. 2813, 2842.)

Floor tax.

SEC. 702. [*Act of February 24, 1919 (40 Stat., 1057).*] That upon all the articles enumerated in section 700 * * *, which were manufactured or imported, and removed from factory or customhouse on or prior to the date of the passage of this Act, and upon which the tax imposed by existing law has been paid, and which are, on the day after the passage of this Act, held by any person and intended for sale, there shall be levied, assessed, collected, and paid a floor tax equal to the difference between (a) the tax imposed by this Act upon such articles according to the class in which they are placed by this title, and (b) the tax imposed upon such articles by existing law other than section 403 of the Revenue Act of 1917.

Regulations. (T. D. 2799.)

Cigarette paper.

SEC. 703. [*Act of February 24, 1919 (40 Stat., 1057).*] That there shall be levied, collected, and paid, in lieu of the taxes imposed by section 404 of the Revenue Act of 1917, upon cigarette paper made up into packages, books, sets, or tubes, made up in or imported into the United States and hereafter sold by the manufacturer or importer

to any person (other than to a manufacturer of cigarettes for use by him in the manufacture of cigarettes) the following taxes, to be paid by the manufacturer or importer: On each package, book, or set, containing more than twenty-five but not more than fifty papers, $\frac{1}{2}$ cent; containing more than fifty but not more than one hundred papers, 1 cent; containing more than one hundred papers, $\frac{1}{2}$ cent for each fifty papers or fractional part thereof; and upon tubes, 1 cent for each fifty tubes or fractional part thereof.

Every manufacturer of cigarettes purchasing any cigarette paper made up into tubes (a) shall give bond in an amount and with sureties satisfactory to the Commission that he will use such tubes in the manufacture of cigarettes or pay thereon a tax equivalent to the tax imposed by this section, and (b) shall keep such records and render under oath such returns as the Commissioner finds necessary to show the disposition of all tubes purchased or imported by such manufacturer of cigarettes.

Bonds.

Records.

Regulations. (T. Ds. 2552, 2560, 2842.)

Floor stock, returns. (T. D. 2356.)

Date of acts imposing tax on cigars and cigarettes and rates of tax.

	Rates of tax.	Acts imposing tax.	Acts repealing tax.	Length of time rates were in force.
	<i>Per M.</i>			<i>Months.</i>
Cigars valued at not over \$5 per M.	\$1.50	July 1, 1862	June 30, 1864	22
Valued at over \$5 and not over \$10 per M.	2.00	do.	do.	22
Valued at over \$10 and not over \$20 per M.	2.50	do.	do.	22
Valued at over \$20 per M.	3.50	do.	do.	22
Cheroots valued at not over \$5 per M.	3.00	June 30, 1864	Mar. 3, 1865	9
Cigars valued at not over \$5 per M.	3.00	do.	do.	9
Valued at over \$5 and not over \$15 per M.	8.00	do.	do.	9
Valued at over \$15 and not over \$30 per M.	15.00	do.	do.	9
Valued at over \$30 and not over \$45 per M.	25.00	do.	do.	9
Valued at over \$45 per M.	40.00	do.	do.	9
Cigarettes valued at not over \$6 per 100 packages of 25 each.	1.00	do.	do.	9
Valued at over \$6 per 100 packages of 25 each.	3.00	do.	do.	9
Cigarettes made wholly of tobacco.	3.00	do.	do.	9
Cigars and cheroots made wholly of tobacco or of any substitutes therefor.	10.00	Mar. 3, 1865	July 13, 1866	16
Cigarettes valued at not over \$6 per 100 packages of 25 each.	1.05	do.	do.	16
Valued at over \$6 per 100 packages of 25 each.	1.05	do.	do.	16
Cigarettes made wholly of tobacco or of any substitutes therefor.	10.00	do.	do.	16
Cigars, cigarettes, and cheroots valued at \$8 per M. or less.	2.00	July 13, 1866	Mar. 2, 1867	7
Valued at over \$8 and not over \$12 per M.	4.00	do.	do.	7
Valued at over \$12 per M.	4.00	do.	do.	7
Cigars, cigarettes, and cheroots of all descriptions.	5.00	Mar. 2, 1867	July 20, 1868	17
Cigars and cheroots of all descriptions.	5.00	July 20, 1868	Mar. 3, 1875	79
Cigarettes weighing not over 8 pounds per M.	1.50	do.	do.	79
Weighting over 8 pounds per M.	5.00	do.	do.	79

1 Per 100 packages.

2 Per package.

3 Per cent.

4 And 20 per cent.

Date of acts imposing tax on cigars and cigarettes and rates of tax—Continued.

	Rates of tax.	Acts impos- ing tax.	Acts repeal- ing tax.	Length of time rates were in force.
	<i>Per M.</i>			<i>Months.</i>
Cigars and cheroots of all descriptions...	\$6.00	Mar. 3, 1875	Mar. 3, 1883	96
Cigarettes weighing not over 3 pounds per M.....	1.75	do.	do.	96
Weighing over 3 pounds per M.....	6.00	do.	do.	96
Cigars and cheroots of all descriptions...	3.00	Mar. 3, 1883	June 13, 1898	183
Cigarettes weighing not over 3 pounds per M.....	.50	do.	July 24, 1897	172
Weighing over 3 pounds per M.....	3.00	do.	June 13, 1898	183
Cigars weighing more than 3 pounds per M.....	3.00	July 24, 1897	do.	10
Weighing not more than 3 pounds per M.....	1.00	do.	Mar. 2, 1901	47
Cigarettes weighing more than 3 pounds per M.....	3.00	do.	June 13, 1898	10
Weighing not more than 3 pounds per M.....	1.00	do.	do.	10
Cigars weighing more than 3 pounds per M.....	3.60	June 13, 1898	Mar. 2, 1901	37
Weighing not more than 3 pounds per M.....	1.00	do.	do.	37
Cigarettes weighing more than 3 pounds per M.....	3.60	do.	Apr. 12, 1902	49
Weighing not more than 3 pounds per M.....	1.50	do.	Mar. 2, 1901	37
Cigars weighing more than 3 pounds per M.....	3.00	Mar. 2, 1901	do.	.....
Weighing not more than 3 pounds per M.....	.54	do.	Aug. 5, 1900	108
Cigarettes weighing more than 3 pounds per M.....	3.00	Apr. 12, 1902	do.	96
Weighing not more than 3 pounds per M of wholesale value or price of—				
Not over \$2 per M.....	.54	Mar. 2, 1901	do.	108
More than \$2 per M.....	1.08	do.	do.	108
Cigars weighing more than 3 pounds per M.....	3.00	Aug. 5, 1900	Oct. 3, 1917	87
Weighing not more than 3 pounds per M.....	.75	do.	do.	87
Cigarettes weighing more than 3 pounds per M.....	3.60	do.	do.	87
Weighing not more than 3 pounds per M.....	1.25	do.	do.	87
Class A. Cigars weighing more than 3 pounds per 1,000 if manufac- tured or imported to retail at less than 4 cents each.....	3.00	Oct. 3, 1917	do.	1
Class B. Cigars weighing more than 3 pounds per 1,000 if manufac- tured or imported to retail at 4 cents or more and not more than 7 cents each.....	3.50	do.	do.	1
Class C. Cigars weighing more than 3 pounds per 1,000 if manufac- tured or imported to retail at more than 7 cents each and not more than 15 cents each.....	4.50	do.	do.	.....
Class D. Cigars weighing more than 3 pounds per 1,000 if manufac- tured or imported to retail at more than 15 cents each and not more than 20 cents each.....	5.50	do.	do.	1
Class E. Cigars weighing more than 3 pounds per 1,000 if manufac- tured or imported to retail at more than 20 cents each.....	6.50	do.	do.	1
Cigars weighing not more than 3 pounds per 1,000.....	.875	do.	do.	1
Cigarettes weighing not more than 3 pounds per 1,000.....	1.65	do.	do.	1
Cigarettes weighing more than 3 pounds per 1,000.....	4.20	do.	do.	1

Date of acts imposing tax on cigars and cigarettes and rates of tax—Continued.

	Rates of tax.	Acts impos- ing tax.	Acts repeal- ing tax.	Length of time rates were in force.
	<i>Per M.</i>			<i>Months.</i>
Class A. Cigars weighing more than 3 pounds per 1,000 if manufactured or imported to retail at less than 4 cents each.....	\$3.00	Oct. 3, 1917	Feb. 24, 1919.	16
Class B. Cigars weighing more than 3 pounds per 1,000 if manufactured or imported to retail at 4 cents or more and not more than 7 cents each.....	4.00	.....do.....	.....do.....	16
Class C. Cigars weighing more than 3 pounds per 1,000 if manufactured or imported to retail at more than 7 cents each and not more than 15 cents each.....	6.00	.....do.....	.....do.....	16
Class D. Cigars weighing more than 3 pounds per 1,000 if manufactured or imported to retail at more than 15 cents each and not more than 20 cents each.....	8.00	.....do.....	.....do.....	16
Class E. Cigars weighing more than 3 pounds per 1,000 if manufactured or imported to retail at more than 20 cents each.....	10.00	.....do.....	.....do.....	16
Cigars weighing not more than 3 pounds per 1,000.....	1.00	.....do.....	.....do.....	16
Cigarettes weighing not more than 3 pounds per 1,000.....	2.05	.....do.....	.....do.....	16
Cigarettes weighing more than 3 pounds per 1,000.....	4.80	.....do.....	.....do.....	16
Class A. Cigars weighing more than 3 pounds per 1,000 if manufactured or imported to retail at not more than 5 cents each.....	4.00	Feb. 24, 1919		
Class B. Cigars weighing more than 3 pounds per 1,000 if manufactured or imported to retail at more than 5 cents each and not more than 8 cents each.....	6.00	.....do.....		
Class C. Cigars weighing more than 3 pounds per 1,000 if manufactured or imported to retail at more than 8 cents each and not more than 15 cents each.....	9.00	.....do.....		
Class D. Cigars weighing more than 3 pounds per 1,000 if manufactured or imported to retail at more than 15 cents each and not more than 20 cents each.....	12.00	.....do.....		
Class E. Cigars weighing more than 3 pounds per 1,000 if manufactured or imported to retail at more than 20 cents each.....	15.00	.....do.....		
Cigars weighing not more than 3 pounds per 1,000.....	1.50	.....do.....		
Cigarettes weighing not more than 3 pounds per 1,000.....	3.00	.....do.....		
Cigarettes weighing more than 3 pounds per 1,000.....	7.20	.....do.....		

The act of July 1, 1862, went into operation September 1, 1862.

The act of July 20, 1868, first required payment of tax on cigars by stamps.

Assessment of tax on cigars removed without stamps. (Sec. 3371, p. 384.)

Authority of commissioner to examine returns of cigar manufacturers and to treat deficiency in product based on the return of one thousand cigars for every 25 pounds of tobacco as prima facie evidence of nonpayment of taxes. (See note under sec. 3371, p. 384.)

Section 3362, amended, provides that fine-cut shorts, the refuse of fine-cut chewing tobacco, refuse scraps, clippings, cuttings, and sweepings of tobacco may be sold in bulk as material and without the payment of tax, by one manufacturer directly to another manufacturer, or for export, under such restrictions, rules, and regulations as the Commissioner of Internal Revenue may prescribe. This relates to cigar manufacturers as well as manufacturers of tobacco.

Summary of sections of the act of August 5, 1909, effective July 1, 1910. (T. D. 1602.)

Increased rates of taxation under said act. (T. D. 1622; T. D. 1629.)

Scrap tobacco, sweepings, clippings, classified as "Un-manufactured tobacco" under Tariff Act of 1897. (Latimer v. United States, 223 U. S. 501.)

Cigars manufactured in bonded warehouses. Act of October 3, 1913. (T. D. 1919.)

Label on boxes of large cigars indicating class of tax payment. (T. D. 2595.)

Regulations concerning taxes on tobacco, snuff, cigars, and cigarettes removed from factory or customhouse on and after October 4, 1917, subject to half additional tax and on and after November 2, 1917, subject to full additional tax imposed by the act of October 3, 1917. (T. D. 2560.)

Stamps, how prepared, furnished, and accounted for.

SEC. 3395. The Commissioner of Internal Revenue shall cause to be prepared, for payment of the tax upon cigars, suitable stamps denoting the tax thereon. Such stamps shall be furnished to collectors requiring them, and collectors shall, if there be any cigar-manufacturers within their respective districts, keep on hand at all times a supply equal in amount to two months' sales thereof, and shall sell the same only to the cigar-manufacturers who have given bonds and paid the special tax, as required by law, in their districts, respectively, and to importers of cigars, who are required to affix the same to imported cigars in the custody of customs officers, and to persons required by law to affix the same to cigars on hand after the first day of April, eighteen hundred and sixty-nine. Every collector shall keep an account of the number, amount, and denominate values of the stamps sold by him to each cigar-manufacturer, and to other persons above described.

Record 47.

See sections 3445 and 3446 as amended (p. 586) as to authority to prescribe how stamps shall be attached, canceled, etc.

See, also, section 3369, page 383.

Porto Rico. An act to provide means for the sale of internal-revenue stamps in the island of Porto Rico, approved June 29, 1906. (See p. 620.)

Sale of internal-revenue stamps in the island of Porto Rico, Circular No. 679, dated July 25, 1906 (T. D. 1031).

Sale of stamps to a sheriff or constable. (25 Int. Rev. Rec., 21.)

Regulations authorized.

SEC. 3396. The Commissioner of Internal Revenue may prescribe such regulations for the inspection of cigars, cheroots, and cigarettes, and the collection of the tax

thereon, as he may deem most effective for the prevention of frauds in the payment of such tax.

The commissioner has authority to prescribe regulations for the inspection of cigars and the collection of the tax thereon. (*Ludloff v. United States*, 108 U. S. 176.)

SEC. 3397. [*Amended by sec. 16, act of March 1, 1879 (20 Stat., 327).*] Whenever any cigars are removed from any manufactory, or place where cigars are made, without being packed in boxes as required by the provisions of this chapter, or without the proper stamp thereon denoting the tax, or without stamping, indenting, burning, or impressing into each box, in a legible and durable manner, the number of the cigars contained therein, the number of the manufactory, and the number of the district and the State, or without properly affixing thereon and canceling the stamp denoting the tax on the same, or are sold, or offered for sale, not properly boxed and stamped, they shall be forfeited to the United States. And every person who commits any of the above-described offenses shall be fined for each such offense not less than one hundred dollars nor more than one thousand dollars, and imprisoned not less than six months nor more than two years.

Removal without properly boxing, stamping, or branding.

Penalty.

And every person who packs cigars in any box bearing a false or fraudulent or counterfeit stamp, or who affixes to any box containing cigars a stamp in the similitude or likeness of any stamp required to be used by the laws of the United States, whether the same be a customs or internal-revenue stamp, or who buys, receives, or has in his possession any cigars on which the tax to which they are liable has not been paid, or who removes, or causes to be removed, from any box any stamp denoting the tax on cigars, with intent to use the same, or who uses, or permits any other person to use, any stamp so removed, or who receives, buys, sells, gives away, or has in his possession any stamp so removed, or who makes any other fraudulent use of any stamp intended for cigars, or who removes from the place of manufacture any cigars not properly boxed and stamped as required by law, shall be deemed guilty of a felony, and shall be fined not less than one hundred dollars nor more than one thousand dollars, and imprisoned not less than six months nor more than three years.

Using fraudulent or imitation stamps.

Penalty.

Provided, That cigars packed expressly for export, and which shall be exported to a foreign country under the restrictions and regulations prescribed by the Commissioner of Internal Revenue, and approved by the Secretary of the Treasury, shall be exempt from the provisions of this section, and also from the provisions of section thirty-three hundred and ninety-three of the Revised Statutes, requiring a label to be affixed to each box.

Cigars packed for export.

See section 3445, page 589, relative to canceling stamps. Affixing to a box containing domestic cigars a stamp in the similitude of a customs stamp is an indictable offense, and it is not necessary in the indictment to aver an intent

to defraud the United States. (*United States v. Jacoby*, 12 Blatchf. 491; Fed. Cas. No. 15462.)

Where a sheriff or constable removes cigars from a cigar factory without the same being properly boxed and stamped, and sells the same unstamped, he is liable to the penalty prescribed. (T. D. 21167.)

Stamps on boxes of cigars must be properly affixed and canceled to avoid liability to seizure. (T. D. 19063.)

Cigars removed from factory without stamping into each box the number of the manufactory and the number of the district and State; the natural inference is that the cigars were removed from the factory in the condition in which they were found. (*Jackson v. United States*, 21 Fed. 35; 30 Int. Rev. Rec., 279.)

United States v. Woolhelm, 11 Int. Rev. Rec. 78; Fed. Cas. No. 16761.

Boxes of cigars in the hands of innocent purchasers upon which the number of the factory had not been impressed forfeitable. (*United States v. 76, 125 Cigars*, 18 Fed. 147.)

Cigars exposed for sale outside of stamped packages. (Cir. 648; T. D. 678.)

Cigars exposed for sale in boxes without covers. (T. Ds. 724, 788, 1287, 1296.)

Unstamped cigars and cigarettes removed as "smokers." (T. Ds. 1723, 1725, 1744.)

Absence of stamps, evidence of nonpayment of tax.

SEC. 3398. The absence of the proper revenue-stamp on any box of cigars sold, or offered for sale, or kept for sale, shall be notice to all persons that the tax has not been paid thereon, and shall be prima-facie evidence of the nonpayment thereof, and such cigars shall be forfeited to the United States.

See section 3376, page 336 (T. D. 1296).

Cigars manufactured on shares, commission, or contract, how stamped.

SEC. 3399. Whenever cigars of any description are manufactured, in whole or in part, upon commission or shares, or the material is furnished by one party and manufactured by another, or the material is furnished or sold by one party with an understanding or agreement with another that the cigars are to be received in payment therefor, or for any part thereof, the stamps required by law shall be affixed by the actual maker before the cigars are removed from the place of manufacturing. And in case of fraud on the part of either of said parties in respect to said manufacture, or of any collusion on their part with intent to defraud the revenue, such material and cigars shall be forfeited to the United States; and every person engaged in such fraud or collusion shall be fined not less than one hundred dollars nor more than five thousand dollars, and imprisoned for not less than six months nor more than three years.

Fraud, penalty.

Forfeiture of property for selling, etc., contrary to law, using false stamps, etc.

SEC. 3400. Every manufacturer of cigars who removes or sells any cigars without payment of the special tax as a cigar manufacturer, or without having given bond as such, or without the proper stamps denoting the tax thereon; or who makes false or fraudulent entries of the manufacture or sale of any cigars; or makes false or fraudulent entries of the purchase or sale of leaf-tobacco, tobacco-stems, or other material used in the manufacture

of cigars; or who affixes any false, forged, spurious, fraudulent, or counterfeit stamp, or imitation of any stamp, required by law to any box containing any cigars, shall, in addition to the penalties elsewhere provided in this Title for such offenses, forfeit to the United States all raw material and manufactured or partly manufactured tobacco and cigars, and all machinery, tools, implements, apparatus, fixtures, boxes, barrels, and all other materials which shall be found in his possession, or in his manufactory, and used in his business as such manufacturer, together with his estate or interest in the building or factory, and the lot or tract of ground on which such building or factory is located, and all appurtenances thereunto belonging.

See section 5413, Revised Statutes, page 680.

Machines used in violation of law, although leased from a third person ignorant of such violation, are subject to forfeiture. The owner is held to have acted with the knowledge that the property would be subject to forfeiture if the business was unlawfully conducted, and to have taken the risk. (*United States v. 220 Patented Machines*, 99 Fed., 559; T. D. 54.)

The existence of a bona fide mortgage on personal property will not prevent forfeiture. (*United States v. 246½ pounds of Tobacco*, 106 Fed., 791.)

Sec. 3401. (*Obsolete.*) Falsely representing cigars to have been made prior to July 20, 1868.

Sec. 3402. All cigars imported from foreign countries shall pay, in addition to the import duties imposed thereon, the tax prescribed by law for cigars manufactured in the United States, and shall have the same stamps affixed.

The stamps shall be affixed and canceled by the owner or importer of the cigars while they are in the custody of the proper custom-house officers, and the cigars shall not pass out of the custody of such officers until the stamps have been so affixed and canceled, but shall be put up in boxes containing quantities as prescribed in this chapter for cigars manufactured in the United States, before the stamps are affixed. And the owner or importer of such cigars shall be liable to all the penal provisions of this Title prescribed for manufacturers of cigars manufactured in the United States. Whenever it is necessary to take any cigars so imported to any place other than the public stores of the United States, for the purpose of affixing and canceling such stamps, the collector of customs of the port where such cigars are entered shall designate a bonded warehouse to which they shall be taken, under the control of such customs officer as such collector may direct. And every officer of customs who permits any such cigars to pass out of his custody or control, without compliance by the owner or importer thereof with the provisions of this section relating thereto, shall be deemed guilty of a misdemeanor, and shall be fined not less than one thousand dollars nor more

Imported cigars to pay tax; stamps, when and by whom affixed.

than five thousand dollars, and imprisoned not less than six months nor more than three years.

Relative to packing and stamping imported cigars:

SEC. 2804, amended act of Aug. 28, 1894, sec. 26. No cigars shall be imported unless the same are packed in boxes of not more than five hundred cigars in each box; and no entry of any imported cigars shall be allowed of less quantity than three thousand in a single package; and all cigars on importation shall be placed in public store or bonded warehouse, and shall not be removed therefrom until the same shall have been inspected and a stamp affixed to each box indicating such inspection, and also a serial number to be recorded in the custom house. And the Secretary of the Treasury is hereby authorized to provide the requisite stamps, and to make all necessary regulations for carrying the above provisions of law into effect.

As to imported cigarettes, see section 3392 as amended, page 399.

As to exportation of cigars, see under tobacco, section 3385, page 390.

As to drawback on cigars. (Sec. 3386, p. 398.)

Instructions for stamping domestic cigars reimported. (Regulations No. 8, pp. 64, 65.)

Cigars imported from the Philippines are not imported from a foreign country. (24 Op. Atty. Gen., 120.)

Section 3377 as amended provides, "That scraps, cuttings, and clippings of tobacco imported from any foreign country may, after the proper customs duty has been paid thereon, be withdrawn in bulk without the payment of the internal-revenue tax, and transferred as material directly to the factory of a manufacturer of tobacco or snuff, or of a cigar manufacturer, under such restrictions and regulations as shall be prescribed by the Commissioner of Internal Revenue and approved by the Secretary of the Treasury."

Cigars on hand
after April 1,
1899.

SEC. 3403. All cigars of every description, on hand after the first day of April, eighteen hundred and sixty-nine, shall be taken to have been either manufactured or imported after the passage of the internal-revenue act of July twentieth, eighteen hundred and sixty-eight, and shall be stamped accordingly.

Selling im-
ported cigars
not packed and
stamped as re-
quired by law;
penalty.

Every person who sells or offers for sale any imported cigars, or cigars purporting or claimed to have been imported, not put up in packages and stamped as provided by this chapter, shall be fined not less than five hundred dollars nor more than five thousand dollars, and be imprisoned not less than six months nor more than two years.

Purchasing ci-
gars not branded
or stamped; pen-
alty.

SEC. 3404. Every person who purchases or receives for sale any cigars which have not been branded or stamped according to law, shall be liable to a penalty of fifty dollars for each such offense.

Dealers, as well as manufacturers, are liable for selling or offering for sale cigars not properly boxed and stamped. (United States v. Edwards, 17 Int. Rev. Rec., 126; Fed. Cas. No. 15025; United States v. Mena, 29 Int. Rev. Rec., 190.)

Buying cigars
from manufac-
turer who has
not paid special
tax.

SEC. 3405. Every person who purchases or receives for sale any cigars from any manufacturer who has not paid the special tax shall be liable for each offense to a penalty of one hundred dollars, and to a forfeiture of all the said

articles so purchased or received, or of the full value thereof.

SEC. 3406. Whenever any stamped box containing cigars, cheroots, or cigarettes, is emptied, it shall be the duty of the person in whose hands the same is to destroy utterly the stamps thereon. Any person who willfully neglects or refuses so to do shall, for each such offense, be fined not exceeding fifty dollars and imprisoned not less than ten days nor more than six months. And any person who fraudulently gives away or accepts from another or who sells, buys, or uses for packing cigars, cheroots, or cigarettes, any such stamped box, shall for each such offense be fined not exceeding one hundred dollars and be imprisoned not more than one year. Any revenue officer may destroy any emptied cigar-box upon which a cigar-stamp is found.

Stamps on emptied cigar-boxes to be destroyed; penalty for neglect, etc.

Destruction of emptied stamped cigar box.

Section 3315, as amended by section 5, act March 1, 1879, page 270, provides for restamping packages of cigars and cigarettes which have been duly stamped but from which the stamps have been lost or destroyed by unavoidable accident.

An act to reduce tariff duties and to provide revenue for the Government, and for other purposes, approved October 3 1913 (38 Stat., 114).

MANUFACTURE OF ARTICLES INTENDED FOR EXPORTATION IN BONDED WAREHOUSES.

SEC. IV. Par. M. * * * * *

Provided, That cigars manufactured in whole or in part of tobacco imported from any one country, made and manufactured in such bonded manufacturing warehouses, may be withdrawn for home consumption upon the payment of the duties on such tobacco in its condition as imported under such regulations as the Secretary of the Treasury may prescribe, and the payment of the internal-revenue tax accruing on such cigars in their condition as withdrawn, and the boxes or packages containing such cigars shall be stamped to indicate their character, origin of tobacco from which made, and place of manufacture.

Cigars from imported tobacco.

Cigars made in bonded manufacturing warehouses. (Customs Decision No. 33,783; Oct. 10, 1913; see T. D. 1919.)

CHAPTER TEN.

OPIUM.

[Act of January 17, 1914 (38 Stat., 275).]

Sec.

1. Opium manufactured for smoking purposes; manufacturer defined.
2. Notice; inventories; books; returns; bond.

Sec.

3. Tax paid by stamp.
4. General laws applicable.
5. Penalty; forfeiture and destruction of opium.
6. Former provisions repealed.

[Act of December 17, 1914 (38 Stat., 785).]

- 1 (amended). Registration; special tax; records; forfeitures.
2. Purchase orders; prescriptions; exemptions.
3. Sworn statement.
4. Shipments.
5. Inspection of order forms, etc.; certified copies of returns; fees of collectors.
6. (amended). Preparations exempt; records; decocainized coca leaves.

7. Laws applicable; possession of drugs; penalties.
8. Possession of drugs prohibited, when; exemptions.
9. Penalties.
10. Appointment of agents, deputy collectors, etc.
11. Appropriation.
12. Impairment or repeal of certain acts.

[Act of February 24, 1919 (40 Stat., 1057).]

1008. Selling, compounding, etc., of opium, etc.; seizures and forfeitures.

An act regulating the manufacture of smoking opium within the United States, and for other purposes.

Sec. 1. [Act of January 17, 1914 (38 Stat., 275).]

Tax of \$300 a pound levied.

That an internal-revenue tax of \$300 per pound shall be levied and collected upon all opium manufactured in the United States for smoking purposes; and no person shall engage in such manufacture who is not a citizen of the United States and who has not given the bond required by the Commissioner of Internal Revenue. Every person who prepares opium suitable for smoking purposes from crude gum opium, or from any preparation thereof, or from the residue of smoked or partially smoked opium, commonly known as yen shee, or from any mixture of the above, or any of them, shall be regarded as a manufacturer of smoking opium within the meaning of this act.

Sec. 2. That every manufacturer of such opium shall file with the collector of internal revenue of the district in which his manufactory is located such notices, inventories, and bonds, shall keep such books and render such returns of material and products, shall put up such signs and affix such number to his factory, and conduct his business under such surveillance of officers and agents as the Commissioner of Internal Revenue, with the approval

Notices, inventories, bonds, books, signs, and factory number.

of the Secretary of the Treasury, may by regulation require. But the bond required of such manufacturer shall be with sureties satisfactory to the collector of internal revenue, and in a penal sum of not less than \$100,000; and the sum of said bond may be increased from time to time and additional sureties required, at the discretion of the collector or under instructions of the Commissioner of Internal Revenue.

Tax payable
by stamp.

Sec. 3. That all opium prepared for smoking manufactured in the United States shall be duly stamped in such a permanent manner as to denote the payment of the internal-revenue tax thereon.

Existing laws
as to stamps for
tobacco and
snuff applicable.

Sec. 4. That the provisions of existing laws covering the engraving, issue, sale, accountability, effacement, cancellation, and the destruction of stamps relating to tobacco and snuff, as far as applicable, are hereby made to apply to stamps provided for by the preceding section.

Penalty; for-
feiture and de-
struction of un-
stamped opium.

Sec. 5. That a penalty of not less than \$10,000 or imprisonment for not less than five years, or both, in the discretion of the court, shall be imposed for each and every violation of the preceding sections of this act relating to opium by any person or persons; and all opium prepared for smoking wherever found within the United States without the stamps required by this act shall be forfeited and destroyed.

Act October
1, 1890, repealed
in part.

Sec. 6. The provisions of the act of October first, eighteen hundred and ninety (Twenty-sixth Statutes, page fifteen hundred and sixty-seven), in so far as they relate to the manufacture of smoking opium, are hereby repealed.

Regulations No. 16, revised; May 15, 1915. (T. D. 2211.)

Aqueous extract of opium held to be opium suitable for smoking purposes within the meaning of the act. (T. D. 1982.)

Manufacture of smoking opium defined. (T. Ds. 1697, 1761, 1765, 1770; Seidler v. United States, 228 Fed., 334.)

The Opium Law on its face is a law imposing a tax for revenue purposes. (Lee Mow Lin v. United States, 250 Fed., 694.)

An act to prohibit the importation and use of opium for other than medicinal purposes, approved February 9, 1909. (35 Stat., 614), amended by act of January 17, 1914 (38 Stat., 275).

That after the first day of April, nineteen hundred and nine, it shall be unlawful to import into the United States opium in any form or any preparation or derivative thereof: *Provided*, That opium and preparations and derivatives thereof, other than smoking opium or opium prepared for smoking, may be imported for medicinal purposes only, under regulations which the Secretary of the Treasury is hereby authorized to prescribe, and when so imported shall be subject to the duties which are now or may hereafter be imposed by law.

Sec. 2. That if any person shall fraudulently or knowingly import or bring into the United States, or assist in so doing, any opium or any preparation or derivative thereof contrary to law, or shall receive, conceal, buy, sell, or in any manner facilitate the transportation, concealment, or sale of such opium or preparation or derivative thereof

after importation, knowing the same to have been imported contrary to law, such opium or preparation or derivative thereof shall be forfeited and shall be destroyed and the offender shall be fined in any sum not exceeding \$5,000 nor less than \$50 or by imprisonment for any time not exceeding two years, or both. Whenever, on trial for a violation of this section, the defendant is shown to have, or to have had, possession of such opium or preparation or derivative thereof, such possession shall be deemed sufficient evidence to authorize conviction unless the defendant shall explain the possession to the satisfaction of the jury.

Sec. 3. That on and after July first, nineteen hundred and thirteen, all smoking opium or opium prepared for smoking found within the United States shall be presumed to have been imported after the first day of April, nineteen hundred and nine, and the burden of proof shall be on the claimant or the accused to rebut such presumption.

Sec. 4. That any person subject to the jurisdiction of the United States who shall, either as principal or as accessory, receive or have in his possession, or conceal on board of or transport on any foreign or domestic vessel or other water craft or railroad car or other vehicle destined to or bound from the United States or any possession thereof, any smoking opium or opium prepared for smoking, or who, having knowledge of the presence in or on any such vessel, water craft, or vehicle of such article, shall not report the same to the principal officer thereof, shall be subject to the penalty provided in section two of this act. Whenever on trial for violation of this section the defendant is shown to have or to have had possession of such opium, such possession shall be deemed sufficient evidence to authorize conviction, unless the defendant shall explain the possession to the satisfaction of the jury: *Provided, however,* That any master of a vessel or other water craft, or person in charge of a railroad car or other vehicle, shall not be liable under this section if he shall satisfy the jury that he had no knowledge and used due diligence to prevent the presence of such article in or on such vessel, water craft, car, or other vessel, and any such article shall be forfeited and shall be destroyed.

Sec. 5. That no smoking opium or opium prepared for smoking shall be admitted into the United States, or into any territory under the control or jurisdiction thereof, for transportation to another country, nor shall such opium be transferred or transhipped from one vessel to another vessel within any waters of the United States for immediate exportation or any other purpose.

Sec. 6. That hereafter it shall be unlawful for any person subject to the jurisdiction of the United States to export or cause to be exported from the United States, or from territory under its control or jurisdiction, or from countries in which the United States exercises extraterritorial jurisdiction, any opium or cocaine, or any salt, derivative, or preparation of opium or cocaine, to any other country: *Provided,* That opium or cocaine, and salts, derivatives, or preparations thereof, except smoking opium or opium prepared for smoking, the exportation of which is hereby absolutely prohibited, may be exported to countries regulating their entry under such regulations as are prescribed by such country for the importation thereof into such country, such regulations to be promulgated from time to time by the Secretary of State of the United States.

The Secretary of State shall request all foreign Governments to communicate through the diplomatic channels copies of laws and regulations promulgated in their respective countries which prohibit or regulate the importation of

the aforesaid drugs, and when received advise the Secretary of the Treasury and the Secretary of Commerce whereof; whereupon the Secretary of State, the Secretary of the Treasury, and the Secretary of Commerce shall make and publish all proper regulations for carrying the provisions of this section into effect.

SEC. 7. That any person who exports or causes to be exported any of the aforesaid drugs in violation of the preceding section shall be fined in any sum not exceeding \$5,000 nor less than \$50, or by imprisonment for any time not exceeding two years, or both. And one-half of any fine recovered from any person or persons convicted of an offense under any section of this act may be paid to the person or persons giving information leading to such recovery, and one-half of any bail forfeited and collected in any proceedings brought under this act may be paid to the person or persons giving the information which led to the institution of such proceedings, if so directed by the court exercising jurisdiction in the case: *Provided*, That no payment for giving information shall be made to any officer or employee of the United States.

SEC. 8. That whenever opium or cocaine or any preparations or derivatives thereof shall be found upon any vessel arriving at any port of the United States which is not shown upon the vessel's manifest, as is provided by sections twenty-eight hundred and six and twenty-eight hundred and seven of the Revised Statutes, such vessel shall be liable for the penalty and forfeiture prescribed in section twenty-eight hundred and nine of the Revised Statutes.

Customs regulations issued under act of February 9, 1909. (T. Ds. 34221, 34452.)

Paragraph 47, Schedule A of the tariff act of October 3, 1913, imposed duties on opium or preparations or derivatives thereof, as follows:

"Opium, crude or unmanufactured, and not adulterated, containing 9 per centum and over of morphia, \$3 per pound; opium of the same composition, dried to contain 15 per centum or less of moisture, powdered, or otherwise advanced beyond the condition of crude or unmanufactured, \$4 per pound; morphia or morphine, sulphate of, and all alkaloids of opium, and salts and esters thereof, \$3 per ounce; cocaine, ecgonine, and all salts and derivatives of the same, \$2 per ounce; aqueous extract of opium, for medicinal uses, and tincture of, as laudanum, and other liquid preparations of opium, not specially provided for in this section, 60 per centum ad valorem; opium containing less than 9 per centum of morphia, \$6 per pound; but preparations of opium deposited in bonded warehouses shall not be removed therefrom without payment of duties, and such duties shall not be refunded: *Provided*, That nothing herein contained shall be so construed as to repeal or in any manner impair or affect the provisions of an act entitled 'An act to prohibit the importation and use of opium for other than medicinal purposes,' approved February ninth, nineteen hundred and nine."

Section 1 held constitutional. (*Lee Mow Lin v. United States*, 250 Fed., 694.)

Testimony of expert chemist that opium in question was of domestic manufacture was properly admitted. (*Id.*)

Government, on prosecution for manufacture of opium for smoking purposes without giving of the bond required by Commissioner of Internal Revenue, must show that Commissioner had, by regulation, required a bond, and what it called for. (*Chin Sing v. United States*, 227 Fed., 396.)

Government must show making of regulations and what they were. (*Id.*)

Government must show existence of stamp to denote payment of tax on smoking opium, required by regulations of

Commissioner with approval of Secretary of Treasury. (Id.)

Section 2 held constitutional. (Thompson v. United States, 258 Fed. 196.)

It is an offense for a registered physician to sell narcotics. (Id.)

Evidence that defendants charged as unlawful dealers in narcotics had considerable quantity of morphine in their possession several months before in another district, was incompetent, where it was shown that they were habitual users of the drug. (Paris v. United States, 280 Fed., 529.)

ACT OF DECEMBER 17, 1914 (38 STAT., 785)..

AN ACT To provide for the registration of, with collectors of internal revenue, and to impose a special tax upon all persons who produce, import, manufacture, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations, and for other purposes.

SEC. 1. [*Amended by section 1006, act of February 24, 1919 (40 Stat., 1057).*] That on or before July 1 of each year every person who imports, manufactures, produces, compounds, sells, deals in, dispenses, or gives away opium or coca leaves, or any compound, manufacture, salt, derivative, or preparation thereof, shall register with the collector of internal revenue of the district his name or style, place of business and place or places where such business is to be carried on, and pay the special taxes hereinafter provided;

Persons who are required to register.

Every person who on January 1, 1919, is engaged in any of the activities above enumerated, or who between such date and the passage of this Act first engages in any of such activities, shall within 30 days after the passage of this Act make like registration, and shall pay the proportionate part of the tax for the period ending June 30, 1919; and

Every person who first engages in any of such activities after the passage of this Act shall immediately make like registration and pay the proportionate part of the tax for the period ending on the following June 30th;

Importers, manufacturers, producers, or compounders, \$24 per annum; wholesale dealers, \$12 per annum; retail dealers, \$6 per annum; physicians, dentists, veterinary surgeons, and other practitioners lawfully entitled to distribute, dispense, give away, or administer any of the aforesaid drugs to patients upon whom they in the course of their professional practice are in attendance, shall pay \$3 per annum.

Special tax.

Every person who imports, manufactures, compounds, or otherwise produces for sale or distribution any of the aforesaid drugs shall be deemed to be an importer, manufacturer, or producer.

Definitions.

Every person who sells or offers for sale any of said drugs in the original stamped packages, as hereinafter provided, shall be deemed a wholesale dealer.

Every person who sells or dispenses from original stamped packages, as hereinafter provided, shall be

deemed a retail dealer: *Provided*, That the office, or if none, the residence, of any person shall be considered for the purpose of this Act his place of business; but no employee of any person who has registered and paid special tax as herein required, acting within the scope of his employment, shall be required to register and pay special tax provided by this section: *Provided further*, That officials of the United States, Territorial, District of Columbia, or insular possessions, State or municipal governments, who in the exercise of their official duties engage in any of the business herein described, shall not be required to register, nor pay special tax, nor stamp the aforesaid drugs as hereinafter prescribed, but their right to this exemption shall be evidenced in such manner as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulations prescribe.

Failure to register and pay special tax.

It shall be unlawful for any person required to register under the provisions of this Act to import, manufacture, produce, compound, sell, deal in, dispense, distribute, administer, or give away any of the aforesaid drugs without having registered and paid the special tax as imposed by this section.

"Person" includes partnership, etc.

That the word "person" as used in this Act shall be construed to mean and include a partnership, association, company, or corporation, as well as a natural person; and all provisions of existing law relating to special taxes, as far as necessary, are hereby extended and made applicable to this section.

Internal revenue tax levied.

That there shall be levied, assessed, collected, and paid upon opium, coca leaves, any compound, salt, derivative, or preparation thereof, produced in or imported into the United States, and sold, or removed for consumption or sale, an internal-revenue tax at the rate of 1 cent per ounce, and any fraction of an ounce in a package shall be taxed as an ounce, such tax to be paid by the importer, manufacturer, producer, or compounder thereof, and to be represented by appropriate stamps, to be provided by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury; and the stamps herein provided shall be so affixed to the bottle or other container as to securely seal the stopper, covering, or wrapper thereof.

The tax imposed by this section shall be in addition to any import duty imposed on the aforesaid drugs.

Illegal dispensing or purchasing of drugs.

It shall be unlawful for any person to purchase, sell, dispense, or distribute any of the aforesaid drugs except in the original stamped package or from the original stamped package; and the absence of appropriate tax-paid stamps from any of the aforesaid drugs shall be prima facie evidence of a violation of this section by the person in whose possession same may be found; and the possession of any original stamped package containing

any of the aforesaid drugs by any person who has not registered and paid special taxes as required by this section shall be *prima facie* evidence of liability to such special tax: *Provided*, That the provisions of this paragraph shall not apply to any person having in his or her possession any of the aforesaid drugs which have been obtained from a registered dealer in pursuance of a prescription, written for legitimate medical uses, issued by a physician, dentist, veterinary surgeon, or other practitioner registered under this Act; and where the bottle or other container in which such drug may be put up by the dealer upon said prescription bears the name and registry number of the druggist, serial number of prescription, name and address of the patient, and name, address, and registry number of the person writing said prescription; or to the dispensing or administration, or giving away of any of the aforesaid drugs to a patient by a registered physician, dentist, veterinary surgeon, or other practitioner in the course of his professional practice, and where said drugs are dispensed or administered to the patient for legitimate medical purposes, and the record kept as required by this Act of the drugs so dispensed, administered, distributed, or given away.

And all the provisions of existing laws relating to the engraving, issuance, sale, accountability, cancellation, and destruction of tax-paid stamps provided for in the internal-revenue laws are, in so far as necessary, hereby extended and made to apply to stamps provided by this section.

Applicability
of existing laws.

That all unstamped packages of the aforesaid drugs found in the possession of any person, except as herein provided, shall be subject to seizure and forfeiture, and all the provisions of existing internal-revenue laws relating to searches, seizures, and forfeitures of unstamped articles are hereby extended to and made to apply to the articles taxed under this Act and the persons upon whom these taxes are imposed.

Seizure and
forfeiture.

Importers, manufacturers, and wholesale dealers shall keep such books and records and render such monthly returns in relation to the transactions in the aforesaid drugs as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulations require.

Books, rec-
ords, and re-
turns.

The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall make all needful rules and regulations for carrying the provisions of this Act into effect.

Rules and
regulations.

SEC. 2. That it shall be unlawful for any person to sell, barter, exchange, or give away any of the aforesaid drugs except in pursuance of a written order of the person to whom such article is sold, bartered, exchanged, or given, on a form to be issued in blank for that purpose by the Commissioner of Internal Revenue. Every person who shall accept any such order, and in pursuance thereof

Purchase or-
ders required.

Orders to be preserved for 2 years. Inspection of same by officers, agents, etc.

Duplicate orders to be retained by purchaser.

Exemptions—Drugs dispensed to patient, in certain cases.

Prescriptions—How to be issued and signed.

Prescriptions to be preserved for 2 years.

Exemption—Drugs shipped to a foreign country.

shall sell, barter, exchange, or give away any of the aforesaid drugs, shall preserve such order for a period of two years in such a way as to be readily accessible to inspection by any officer, agent, or employee of the Treasury Department duly authorized for that purpose, and the State, Territorial, District, municipal, and insular officials named in section five of this act. Every person who shall give an order as herein provided to any other person for any of the aforesaid drugs shall, at or before the time of giving such order, make or cause to be made a duplicate thereof on a form to be issued in blank for that purpose by the Commissioner of Internal Revenue, and in case of the acceptance of such order, shall preserve such duplicate for said period of two years in such a way as to be readily accessible to inspection by the officers, agents, employees, and officials hereinbefore mentioned. Nothing contained in this section shall apply—

(a) To the dispensing or distribution of any of the aforesaid drugs to a patient by a physician, dentist, or veterinary surgeon registered under this act in the course of his professional practice only: *Provided*, That such physician, dentist, or veterinary surgeon shall keep a record of all such drugs dispensed or distributed, showing the amount dispensed or distributed, the date, and the name and address of the patient to whom such drugs are dispensed or distributed, except such as may be dispensed or distributed to a patient upon whom such physician, dentist, or veterinary surgeon shall personally attend; and such record shall be kept for a period of two years from the date of dispensing or distributing such drugs, subject to inspection, as provided in this act.

(b) To the sale, dispensing, or distribution of any of the aforesaid drugs by a dealer to a consumer under and in pursuance of a written prescription issued by a physician, dentist, or veterinary surgeon registered under this act: *Provided, however*, That such prescription shall be dated as of the day on which signed and shall be signed by the physician, dentist, or veterinary surgeon who shall have issued the same: *And provided further*, That such dealer shall preserve such prescription for a period of two years from the day on which such prescription is filled in such a way as to be readily accessible to inspection by the officers, agents, employees, and officials hereinbefore mentioned.

(c) To the sale, exportation, shipment, or delivery of any of the aforesaid drugs by any person within the United States or any Territory or the District of Columbia or any of the insular possessions of the United States to any person in any foreign country, regulating their entry in accordance with such regulations for importation thereof into such foreign country as are prescribed by said country, such regulations to be promulgated from time to time by the Secretary of State of the United States.

(d) To the sale, barter, exchange, or giving away of any of the aforesaid drugs to any officer of the United States Government or of any State, Territorial, District, county, or municipal or insular government lawfully engaged in making purchases thereof for the various departments of the Army, Navy, the Public Health Service, and for Government, State, Territorial, District, county, or municipal or insular hospitals or prisons.

Sales, etc., to Department of Army, Navy, etc.

The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall cause suitable forms to be prepared for the purposes above mentioned, and shall cause the same to be distributed to collectors of internal revenue for sale by them to those persons who shall have registered and paid the special tax as required by section one of this act in their districts, respectively; and no collector shall sell any of such forms to any persons other than a person who has registered and paid the special tax as required by section one of this act in his district. The price at which such forms shall be sold by said collectors shall be fixed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, but shall not exceed the sum of \$1 per hundred. Every collector shall keep an account of the number of such forms sold by him, the names of the purchasers, and the number of such forms sold to each of such purchasers. Whenever any collector shall sell any of such forms, he shall cause the name of the purchaser thereof to be plainly written or stamped thereon before delivering the same; and no person other than such purchaser shall use any of said forms bearing the name of such purchaser for the purpose of procuring any of the aforesaid drugs, or furnish any of the forms bearing the name of such purchaser to any person with intent thereby to procure the shipment or delivery of any of the aforesaid drugs. It shall be unlawful for any person to obtain by means of said order forms any of the aforesaid drugs for any purpose other than the use, sale, or distribution thereof by him in the conduct of a lawful business in said drugs or in the legitimate practice of his profession.

Blank forms to be provided.

Sale of same.

Collector to keep account of sales.

Blanks to be sold only to persons who have registered.

Unlawful use of forms.

The provisions of this act shall apply to the United States, the District of Columbia, the Territory of Alaska, the Territory of Hawaii, the insular possessions of the United States, and the Canal Zone. In Porto Rico and the Philippine Islands the administration of this act, the collection of the said special tax, and the issuance of the order forms specified in section two shall be performed by the appropriate internal-revenue officers of those governments, and all revenues collected hereunder in Porto Rico and the Philippine Islands shall accrue intact to the general governments thereof, respectively. The courts of first instance in the Philippine Islands shall possess and exercise jurisdiction in all cases arising under this act in said islands. The president is authorized and directed to issue such Executive orders as will carry into

Porto Rico and Philippine Islands.

Canal Zone.

effect in the Canal Zone the intent and purpose of this act by providing for the registration and the imposition of a special tax upon all persons in the Canal Zone who produce, import, compound, deal in, dispense, sell, distribute, or give away opium or coca leaves, their salts, derivatives, or preparations.

Collector may require sworn statement as to drugs received.

Sec. 3. That any person who shall be registered in any internal-revenue district under the provisions of section one of this act shall, whenever required so to do by the collector of the district, render to the said collector a true and correct statement or return, verified by affidavit, setting forth the quantity of the aforesaid drugs received by him in said internal-revenue district during such period immediately preceding the demand of the collector, not exceeding three months, as the said collector may fix and determine; the names of the persons from whom the said drugs were received; the quantity in each instance received from each of such persons, and the date when received.

Shipment of drugs unlawful, except—

Sec. 4. That it shall be unlawful for any person who shall not have registered and paid the special tax as required by section one of this Act to send, ship, carry, or deliver any of the aforesaid drugs from any State or Territory or the District of Columbia, or any insular possession of the United States, to any person in any other State or Territory or the District of Columbia or any insular possession of the United States: *Provided*, That nothing contained in this section shall apply to common carriers engaged in transporting the aforesaid drugs, or to any employee acting within the scope of his employment, of any person who shall have registered and paid the special tax as required by section one of this Act, or to any person who shall deliver any such drug which has been prescribed or dispensed by a physician, dentist, or veterinarian required to register under the terms of this Act, who has been employed to prescribe for the particular patient receiving such drug, or to any United States, State, county, municipal, District, Territorial, or insular officer or official acting within the scope of his official duties.

Common carriers and employees exempt.

Order forms, prescriptions, and statements filed to be open to inspection of officers.

Sec. 5. That the duplicate-order forms and the prescriptions required to be preserved under the provisions of section two of this Act, and the statements or returns filed in the office of the collector of the district, under the provisions of section three of this Act, shall be open to inspection by officers, agents, and employees of the Treasury Department duly authorized for that purpose; and such officials of any State or Territory, or of any organized municipality therein, or of the District of Columbia, or any insular possession of the United States, as shall be charged with the enforcement of any law or municipal ordinance regulating the sale, prescribing, dispensing, dealing in, or distribution of the aforesaid drugs. Each collector of internal revenue is hereby authorized

to furnish, upon written request, certified copies of any of the said statements or returns filed in his office to any of such officials of any State or Territory or organized municipality therein, or the District of Columbia, or any insular possession of the United States, as shall be entitled to inspect the said statements or returns filed in the office of the said collector, upon the payment of a fee of \$1 for each one hundred words or fraction thereof in the copy or copies so requested. Any person who shall disclose the information contained in the said statements or returns or in the said duplicate-order forms, except as herein expressly provided, and except for the purpose of enforcing the provisions of this Act, or for the purpose of enforcing any law of any State or Territory or the District of Columbia, or any insular possession of the United States, or ordinance of any organized municipality therein, regulating the sale, prescribing, dispensing, dealing in, or distribution of the aforesaid drugs, shall, on conviction, be fined or imprisoned as provided by section nine of this Act. And collectors of internal revenue are hereby authorized to furnish upon written request, to any person, a certified copy of the names of any or all persons who may be listed in their respective collection districts as special-tax payers under the provisions of this act, upon payment of a fee of \$1 for each one-hundred names or fraction thereof in the copy so requested.

Certified copies of statements and returns to be furnished by collectors.

Fees.

Penalty for disclosing information, except—

Certified list of names may be furnished.

SEC. 6. [Amended by sec. 1007, act of February 24, 1919 (40 Stat., 1057).] That the provisions of this Act shall not be construed to apply to the manufacture, sale, distribution, giving away, dispensing, or possession of preparations and remedies which do not contain more than two grains of opium, or more than one-fourth of a grain of morphine, or more than one-eighth of a grain of heroin, or more than one grain of codeine, or any salt or derivative of any of them in one fluid ounce, or, if a solid or semisolid preparation, in one avoirdupois ounce; or to liniments, ointments, or other preparations which are prepared for external use, only, except liniments, ointments, and other preparations which contain cocaine or any of its salts or alpha or beta eucaine or any of their salts or any synthetic substitute for them: *Provided*, That such remedies and preparations are manufactured, sold, distributed, given away, dispensed, or possessed as medicines and not for the purpose of evading the intentions and provisions of this Act: *Provided further*, That any manufacturer, producer, compounder, or vendor (including dispensing physicians) of the preparations and remedies mentioned in this section shall keep a record of all sales, exchanges, or gifts of such preparations and remedies in such manner as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall direct.

Act not to apply to certain preparations, etc.

Conditions imposed.

Records.

Such record shall be preserved for a period of two years in such a way as to be readily accessible to inspection by any officer, agent or employee of the Treasury Department duly authorized for that purpose, and the State, Territorial, District, municipal, and insular officers named in section 5 of this Act, and every such person so possessing or disposing of such preparations and remedies shall register as required in section 1 of this Act and, if he is not paying a tax under this Act, he shall pay a special tax of \$1 for each year, or fractional part thereof, in which he is engaged in such occupation, to the collector of internal revenue of the district in which he carries on such occupation as provided in this Act. The provisions of this Act as amended shall not apply to decocoinized coca leaves or preparations made therefrom, or to other preparations of coca leaves which do not contain cocaine.

Decocoinized
coca leaves.

Certain reve-
nue laws made
applicable.

SEC. 7. That all laws relating to the assessment, collection, remission, and refund of internal-revenue taxes, including section thirty-two hundred and twenty-nine of the Revised Statutes of the United States, so far as applicable to and not inconsistent with the provisions of this act, are hereby extended and made applicable to the special taxes imposed by this act.

Possession of
drugs prohibited,
except.

SEC. 8. That it shall be unlawful for any person not registered under the provisions of this act, and who has not paid the special tax provided for by this act, to have in his possession or under his control any of the aforesaid drugs; and such possession or control shall be presumptive evidence of a violation of this section, and also of a violation of the provisions of section one of this act: *Provided*, That this section shall not apply to any employee of a registered person, or to a nurse under the supervision of a physician, dentist, or veterinary surgeon registered under this act, having such possession or control by virtue of his employment or occupation and not on his own account; or to the possession of any of the aforesaid drugs which has or have been prescribed in good faith by a physician, dentist, or veterinary surgeon registered under this act; or to any United States, State, county, municipal, District, Territorial, or insular officer or official who has possession of any said drugs, by reason of his official duties, or to a warehouseman holding possession for a person registered and who has paid the taxes under this act; or to common carriers engaged in transporting such drugs: *Provided further*, That it shall not be necessary to negative any of the aforesaid exemptions in any complaint, information, indictment, or other writ or proceeding laid or brought under this act; and the burden of proof of any such exemption shall be upon the defendant.

Certain per-
sons exempt.

Burden of
proof on defend-
ant.

Penalties.

SEC. 9. That any person who violates or fails to comply with any of the requirements of this act shall, on conviction, be fined not more than \$2,000 or be im-

prisoned not more than five years, or both, in the discretion of the court.

SEC. 10. The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is authorized to appoint such agents, deputy collectors, inspectors, chemists, assistant chemists, clerks, and messengers in the field and in the Bureau of Internal Revenue in the District of Columbia as may be necessary to enforce the provisions of this act.

Appointment of agents, deputy collectors, etc.

SEC. 11. That the sum of \$150,000, or so much thereof as may be necessary, be, and hereby is, appropriated, out of any moneys in the Treasury not otherwise appropriated, for the purpose of carrying into effect the provisions of this act.

Appropriation.

SEC. 12. That nothing contained in this act shall be construed to impair, alter, or repeal any of the provisions of the act of Congress approved June thirtieth, nineteen hundred and six, entitled "An act for preventing the manufacture, sale, or transportation of adulterated or misbranded, or poisonous, or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes," and any amendment thereof, or of the act approved February ninth, nineteen hundred and nine, entitled "An act to prohibit the importation and use of opium for other than medicinal purposes," and any amendment thereof.

Act not to be construed as impairing or repealing certain acts.

Regulations No. 35, revised. (T. D. 2126.)

Act declared constitutional. (United States v. Brown, 224 Fed., 185; T. D. 2204; United States v. Sussman, T. D. 2239; United States v. Doremus, 249 U. S. 86, T. D. 2800; Thompson v. United States, 258 Fed., 196, T. D. 2837; United States v. Denker, 255 Fed., 339; Webb v. United States, 249 U. S. 96; United States v. Lowenthal, 257 Fed., 444; Foreman v. United States, 255 Fed., 621.)

Decisions relating to Act of December 17, 1914.

To sustain constitutionality not necessary to hold that it is designed to protect the revenues of the United States. (United States v. Charter, 227 Fed., 331.)

Making direct sales to addicts in other than legitimate practice of profession of physician, an offense. (Baldwin v. United States, 238 Fed., 798.)

It is assumed that the statute has a moral end, as well as revenue, in view, but it reaches this end within the limits of a revenue measure. The words "any person not registered" in section 8 must be taken to refer to the persons who are required to register. (United States v. Jin Fuey Moy, 241 U. S., 394, T. D. 2840; affirming 225 Fed., 1003.)

Mere possession of opium after July 1, 1913, constitutes an offense, unless party indicted rebuts presumption of importation, regardless of purpose for which he may have had it in his possession, and while purpose of defendant's possession seemed to be sufficiently explained, this did not rebut the presumption of importation contrary to law. (United States v. Johnson, 228 Fed., 251.)

Indictment charging that defendant violated act by giving order for opium, and, after acceptance, failed to preserve duplicate so as to be readily accessible, was sufficient, though alleging date of offense no more definitely than some unknown date within two-year period, which did not tend to defendant's prejudice. (United States v. Gaag, 237 Fed., 728.)

Physician who issues prescription which shows on its face that quantity prescribed is unreasonable and unusual, or a dealer who fills such a prescription or order issued by a physician, is guilty of an offense, unless prescription indicates necessity for such an unusual quantity. Under section 6 the sale or dispensing of large and unusual quantities of drugs unaccompanied by explanation as to necessity therefor, is the sale and dispensing thereof for purpose of evading the intent of the act, and unlawful. (*United States v. Curtis*, 229 Fed., 283.)

Quantity of narcotic drugs that may be dispensed by registered physicians, dentists, and veterinary surgeons. (T. D. 2879; revoking T. D. 2200.)

Instructions as to refilling prescriptions, modifying article 11, Regulations 35. (T. D. 2766.)

Instructions as to sale of unclaimed freight or express packages containing narcotic drugs. (T. D. 2712.)

Physician who sells, gives away, or distributes 500 one-sixth grain tablets of heroin not in pursuance of written order on a form issued on blank furnished by the Commissioner of Internal Revenue, commits indictable offense. Physician dispensing like quantity of heroin not in course of professional practice, but to person popularly known as "dope fiend" to gratify latter's appetite, commits indictable offense. (*United States v. Doremus*, 249 U. S. 86; T. D. 2800.)

Under section 2 physician may dispense in course of professional practice and without written order a narcotic to a patient, though he does not personally attend the patient, but he must keep the prescribed record. License required is mere form of imposing a tax, and provisions relating thereto are for purpose of revenue. (*Tucker v. Williamson*, 228 Fed., 201.)

Where indictment charged that defendants were persons required to register and that they unlawfully had certain drugs in their possession, it is not necessary to negative an innocent possession by alleging that defendants' possession was for purpose of sale. (*United States v. O'Hara*, 242 Fed., 749; T. D. 2392.)

Mandamus directed to Commissioner of Internal Revenue and Secretary of the Treasury not proper remedy to abrogate regulation. (*United States v. Osborn*, T. D. 2489.)

Conspiracy to defeat intent and purpose of act. (*United States v. Wallace*, T. D. 2276; *United States v. O'Hara*, 242 Fed., 749; T. D. 2392.)

Fact that physician "when in the course of his professional practice only" is excepted does not provide authority for physician to sell narcotics, if he does not do so in good faith; exception must be strictly construed. (*Thompson v. United States*, 258 Fed., 196; T. D. 2887.)

Indictment charging that at time of offense defendant knew that cocaine was a derivative of coca leaves, and that morphine and heroin were salts and derivatives of opium, sufficiently averred by implication that cocaine was a derivative of such leaves, and that morphine and heroin were salts or derivatives of opium. (*Melanson v. United States*, 256 Fed., 783.)

Indictment under sections 1 and 2 need not negative exceptions in those sections. (*United States v. Loewenthal*, 257 Fed., 444. See *Fyke v. United States*, 254 Fed., 225.)

Section 2 is not invalid as revenue provision. (*United States v. Rosenberg*, 251 Fed., 963; *Hughes v. United States*, 253 Fed., 543; *Fyke v. United States*, 254 Fed., 225.)

Evidence that morphine, heroin, and cocaine are derivatives of opium and coca leaves is unnecessary. (*Hughes v. United States*, 253 Fed., 543.)

Act applies to all sellers, not only to registered dealers. (*Fyke v. United States*, 254 Fed., 225.)

Indictment charging that defendant sold narcotic drugs in violation of the Harrison Narcotic Act held sufficient. (*Fyke v. United States*, 254 Fed., 225.)

Indictment charging that defendant did dispense, etc., a derivative of opium to persons named without written order on prescribed form and not in course of professional practice as physician charged offense under section 2 of act. (*Foreman v. United States*, 255 Fed., 621.)

Mere issuance of prescription by physician for narcotic drug, to be filled by any druggist, without participation by physician in sale is not a sale or such dispensing or distribution as amounts to a sale. (*Foreman v. United States*, 255 Fed., 621.)

Novocaine can not be treated as a derivative of coca leaves or as a liniment or ointment or other preparation for external use containing cocaine. (*Lowe v. Farbwerke-Hoechst Co.*, 240 Fed., 671.)

The act of December 17, 1914, is a criminal statute and must be strictly construed. *United States v. Wilson*, 225 Fed., 82.)

Indictments held sufficient. (*United States v. Woods*, 224 Fed., 278; *United States v. Carney*, 228 Fed., 163; *United States v. Hoyt*, 255 Fed., 927.)

Under section 2, druggist filling prescription for narcotics, issued to addict, is not justified in filling prescription, regardless of fact that he knows or has reason to know that it was not issued in good faith. (*Friedman v. United States*, 260 Fed., 388.)

The Harrison Anti Narcotic Act is not invalid as attempt by Federal Government to exercise police power, which was not delegated, but was reserved to the states. (*Saunders v. United States*, 260 Fed., 386.)

The administrative provisions of section 1 are valid. (*Stetson v. United States*, 257 Fed., 689.)

"Preparations and remedies," contained in section 6 does not include clear morphine, but relates to actual medicinal preparations and remedies not containing more than a quarter of a grain of morphine, remedies such as a physician or druggist would normally dispense. (*Id.*)

Section 8 applies to the business of selling narcotic drugs as distinct from mere possession. (*Id.*)

In a prosecution for violation of section 8, defendant not being charged as a physician or a druggist, and the indictment not negating the exception of section 6, it was open to him to show he was merely dispensing medicinal preparations and remedies containing not more than the amount of morphine permitted by section 6. (*Id.*)

SEC. 1008. [*Act of February 24, 1919 (40 Stat., 1057).*] That all opium, its salts, derivatives, and compounds, and coca leaves, salts, derivatives, and compounds thereof, which may now be under seizure or which may hereafter be seized by the United States Government from any person or persons charged with any violation of the Act of October 1, 1890, as amended by the Acts of March 3, 1897, February 9, 1909, and January 17, 1914, or the Act of December 17, 1914, shall upon conviction of the person or persons from whom seized be confiscated by and forfeited to the United States; and the Secretary is hereby authorized to deliver for medical or scientific purposes to any department, bureau, or other agency of the United States Government, upon proper application

Selling, compounding, etc., of opium, etc. Seizures and forfeitures.

therefor under such regulation as may be prescribed by the Commissioner, with the approval of the Secretary, any of the drugs so seized, confiscated, and forfeited to the United States.

The provisions of this section shall also apply to any of the aforesaid drugs seized or coming into the possession of the United States in the enforcement of any of the above-mentioned Acts where the owner or owners thereof are unknown. None of the aforesaid drugs coming into possession of the United States under the operation of said Acts, or the provisions of this section, shall be destroyed without certification by a committee appointed by the Commissioner, with the approval of the Secretary, that they are of no value for medical or scientific purposes.

CHAPTER ELEVEN.

OLEOMARGARINE; ADULTERATED BUTTER; PROCESS OR RENOVATED BUTTER.

[Acts of August 2, 1886 (24 Stat., 209), and October 1, 1890 (25 Stat., 621), as amended by act of May 9, 1902 (32 Stat., 193).]

Sec.

1. Act May 9, 1902. Imitation dairy products subject to State laws.
Act August 2, 1886:
1. Butter defined.
2. Oleomargarine defined.
- 3 (amended). Special taxes.
4. Penalties for nonpayment of special taxes.
5. Manufacturer's notices, books, returns, bonds, signs, etc.
- 6 (amended). Oleomargarine, how to be packed and sold; penalty.
7. Manufacturer's labels, penalty for failing to affix.
- 8 (amended). Tax, stamps, laws relative to stamps for tobacco and snuff made to apply.
9. Assessment of tax on oleomargarine when removed without stamps.
10. Tax on imported oleomargarine; penalty. Warehousing.
11. Penalty for receiving for sale unstamped oleomargarine.
12. Penalty for purchasing from a manufacturer who has not paid special tax; forfeiture.
13. Stamps on empty packages to be destroyed; penalty for failure; dealing in empty stamped packages.
14. Authority to employ chemists and microscopists.
Commissioner to decide in contested cases; appeal.
15. Forfeiture of unstamped oleomargarine; penalty for defacing or removing stamps.
16. Oleomargarine removed for export.

Sec.

17. Carrying on business as manufacturer in fraud of the revenue; penalties and forfeitures.
18. Penalty for omitting things required and for doing things forbidden.
19. Courts in which fines may be recovered.
20. Commissioner to make regulations.
21. Date when act goes into effect; stock on hand.
Act of May 9, 1902:
4. Butter defined.
Adulterated butter defined.
Process or renovated butter defined.
Notices, bonds.
Inventories, signs.
Manufacturers' packages.
Dealers' packages.
Caution label.
Tax on adulterated and process or renovated butter.
Stamps—Sections relating to stamps for tobacco and snuff made applicable.
Sections of act of August 2, 1886, made applicable to adulterated butter.
5. Inspection of renovated butter.
Marking of process or renovated butter.
Secretary of Agriculture to make regulations.
6. Wholesale dealers in oleomargarine, etc., to keep books and render returns. Penalty.
7. Date of taking effect.

(Act of August 2, 1886 (24 Stat., 209), as amended by acts of October 1, 1890 (25 Stat., 621), and May 9, 1902 (32 Stat., 193), an act to make oleomargarine and other imitation dairy products subject to the laws of any State or Territory, or the District of Columbia, into which they are transported, and to change the tax on oleomargarine, and to impose a tax, provide for the inspection, and regulate the manufacture and sale of certain dairy products, and to amend an act entitled "An act defining butter, also imposing a tax upon and regulating the manufacture, sale, importation, and exportation of oleomargarine," approved August 2, 1886.)

The act is on its face an act for levying taxes; its primary object must be assumed to be the raising of revenue. (In re Kollock, 185 U. S., 528.)

One of the purposes of the law was to prevent the sale of oleomargarine as and for butter. (*Cliff v. United States*, 195 U. S., 159; T. D. 839; 18 Op. Atty. Gen., 489.)

The oleomargarine act is not a complete act in itself. (*United States v. Barnes*, 222 U. S., 513; T. D. 1751.)

Imitation dairy products subject to State laws.

SEC. 1. [*Act of May 9, 1902 (32 Stat., 193)*.] That all articles known as oleomargarine, butterine, imitation, process, renovated, or adulterated butter, or imitation cheese, or any substance in the semblance of butter or cheese not the usual product of the dairy and not made exclusively of pure and unadulterated milk or cream, transported into any State or Territory or the District of Columbia, and remaining therein for use, consumption, sale, or storage therein shall, upon the arrival within the limits of such State or Territory or the District of Columbia, be subject to the operation and effect of the laws of such State or Territory or the District of Columbia, enacted in the exercise of its police powers to the same extent and in the same manner as though such articles or substances had been produced in such State or Territory or the District of Columbia, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.

Butter, definition of.

SEC. 1. [*Act of August 2, 1886 (24 Stat., 209)*.] That for the purpose of this act the word "butter" shall be understood to mean the food product usually known as butter, and which is made exclusively from milk or cream, or both, with or without common salt, and with or without additional coloring matter.

See section 4, act May 9, 1902, defining "butter," also "adulterated butter," and "process or renovated butter," page 174.

Oleomargarine defined.

SEC. 2. [*Act of August 2, 1886 (24 Stat., 209)*.] That for the purposes of this act certain manufactured substances, certain extracts, and certain mixtures and compounds, including such mixtures and compounds with butter, shall be known and designated as "oleomargarine," namely: All substances heretofore known as oleomargarine, oleo, oleomargarine-oil, butterine, lardine, suine, and neutral; all mixtures and compounds of oleomargarine, oleo, oleomargarine-oil, butterine, lardine, suine, and neutral; all lard extracts and tallow extracts; and all mixtures and compounds of tallow, beef-fat, suet, lard, lard-oil, vegetable oil, annatto, and other coloring matter, intestinal fat, and offal fat made in imitation or semblance of butter, or when so made, calculated or intended to be sold as butter or for butter.

Interpretation of definition. (18 Op. Atty. Gen., 489; 32 Int. Rev. Rec., 333.)

Addition of foreign fat, lard, or oil to butter produces oleomargarine. (33 Int. Rev. Rec., 397; Regulations No. 9, pp. 24, 88.)

Taxability of mixtures or compounds of animal or vegetable oils or fats. (T. D. 1354.)

SEC. 4. [*Act of August 2, 1886 (24 Stat., 209).*] That ^{Penalty for violation by manufacturer.} every person who carries on the business of a manufacturer of oleomargarine without having paid the special tax therefor, as required by law, shall, besides being liable to the payment of the tax, be fined not less than one thousand and not more than five thousand dollars; and every person who carries on the business of a wholesale dealer in oleomargarine without having paid the special tax therefor, as required by law, shall, besides being liable to the payment of the tax, be fined not less than five hundred nor more than two thousand dollars; and every person who carries on the business of a retail dealer in oleomargarine without having paid the special tax therefor, as required by law, shall, besides being liable to the payment of the tax, be fined not less than fifty nor more than five hundred dollars for each and every offense.

Penalty for failure to pay special tax. (*United States v. Joyce*, 138 Fed., 455; *Morris v. United States*, 161 Fed., 672; *Hartman et al. v. United States*, 168 Fed., 30, T. D. 1468; *Vermont v. United States*, 174 Fed., 792, T. D. 1579; *United States v. Shipley*, T. D. 1504; *Enders v. United States*, 187 Fed., 754, T. D. 1660.)

Borrowing oleomargarine and returning amount borrowed is a barter not a sale. (*Ewers v. Weaver*, 183 Fed., 713; *Weaver v. Ewers*, 195 Fed., 247.)

SEC. 5. [*Act of August 2, 1886 (24 Stat., 210).*] That every manufacturer of oleomargarine shall file with the collector of internal revenue of the district in which his manufactory is located such notices, inventories, and bonds, shall keep such books and render such returns of material and products, shall put up such signs and affix such number to his factory, and conduct his business under such surveillance of officers and agents as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may, by regulation, require. But the bond required of such manufacturer shall be with sureties satisfactory to the collector of internal revenue, and in a penal sum of not less than five thousand dollars; and the sum of said bond may be increased from time to time and additional sureties required at the discretion of the collector, or under instructions of the Commissioner of Internal Revenue. ^{Manufacturers' notices, inventories, signs, books, bonds, etc.}

Regulations No. 9, T. D. 797, June 6, 1904; T. D. 906, June 20, 1905; and T. D. 1652, August 29, 1910.

Power of attorney by manufacturers to agents to render returns. (T. D. 1263.)

SEC. 6. [*Act of August 2, 1886 (24 Stat., 210, as amended by act of October 1, 1918; 40 Stat., 1008).*] That all oleomargarine shall be packed by the manufacturer thereof in firkins, tubs, or other wooden or paper packages not before used for that purpose, each containing not less than ten pounds, and marked, stamped, and branded as ^{Manufacturers' original packages.}

Retail dealers' packages.

the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe; and all sales made by manufacturers of oleomargarine, and wholesale dealers in oleomargarine shall be in original stamped packages. Retail dealers in oleomargarine must sell only from original stamped packages, in quantities not exceeding ten pounds, and shall pack the oleomargarine sold by them in suitable wooden or paper packages which shall be marked and branded as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe. Every person who knowingly sells or offers for sale, or delivers or offers to deliver, any oleomargarine in any other form than in new wooden or paper packages as above described, or who packs in any package any oleomargarine in any manner contrary to law, or who falsely brands any package or affixes a stamp on any package denoting a less amount of tax than that required by law shall be fined for each offense not more than one thousand dollars, and be imprisoned not more than two years.

Penalties.

Original packages, no objection to using old boxes for material for new packages. (32 Int. Rev. Rec., 405.)

Waxed cartons or containers for packing oleomargarine inside original packages permissible. (T. D. 1323 and T. D. 1563.)

Crates made of wooden slats for holding waxed or enameled cardboard cartons within definition of "wooden packages" as original packages for oleomargarine. (T. D. 1613.)

Power of Commissioner to make regulations as to marks and brands on packages of oleomargarine. (In re Kollock, 165 U. S., 526, 43 Int. Rev. Rec., 170; In re McCauly, 165 U. S., 538. *Prather v. United States*, 9 App. Cases, D. C., 82; *Wilkins v. United States*, 96 Fed., 837; T. D. 21623.)

Retail packages, marks and brands. (*United States v. Ford*, 50 Fed., 467, distinguishing *United States v. Eaton*, 144 U. S., 677; *Dougherty v. United States*, 108 Fed., 56 (T. D. 335), affirming 101 Fed., 439; *United States v. Joyce*, 138 Fed., 457; *United States v. Knott*, 151 Fed., 925; *Morris v. United States*, 161 Fed., 630.)

Limit of 10 pounds retail sales. (*United States v. Ripper*, 178 Fed., 24; *Ripper v. United States*, 179 Fed., 497; T. D. 1609; *Goll v. United States*, 166 Fed., 419.)

A party is liable for the sale by a clerk or employee of oleomargarine without its being in a stamped or wrapped package. (*Prather v. United States*, 9 App. Cases, D. C., 82.)

Indictment under Sec. 6. (*United States v. Lockwood*, 164 Fed., 772; *Goll v. United States*, 166 Fed., 419.)

It is permissible to join several offenses in one indictment setting forth the different acts in separate counts if of the same class. (*Morris v. United States*, 161 Fed., 672. See p. 642.)

The indictment need not set out the regulations. (*Wilkins v. United States*, 96 Fed., 837; T. D. 21623.)

Regulations to carry out provision to permit use of paper containers as original packages for oleomargarine.—Supplement 4, regulations No. 9, revised July, 1907. (T. Ds. 2764, 2774.)

SEC. 7. [*Act of August 2, 1886 (24 Stat., 210).*] That every manufacturer of oleomargarine shall securely affix, by pasting, on each package containing oleomargarine manufactured by him, a label on which shall be printed, besides the number of the manufactory and the district and State in which it is situated, these words: "Notice—The manufacturer of the oleomargarine herein contained has complied with all the requirements of law. Every person is cautioned not to use either this package again or the stamp thereon again, nor to remove the contents of this package without destroying said stamp, under the penalty provided by law in such cases." Every manufacturer of oleomargarine who neglects to affix such label to any package containing oleomargarine made by him, or sold or offered for sale by or for him, and every person who removes any such label so affixed from any such package, shall be fined fifty dollars for each package in respect to which such offense is committed.

Caution label
of manufacturers.

Printing notice directly on paper or fiber containers permitted. (T. D. 2968.)

SEC. 8. [*Act of August 2, 1886 (24 Stat., 210), as amended by sec. 3, act of May 9, 1902 (32 Stat., 193).*] That upon oleomargarine which shall be manufactured and sold, or removed for consumption or use, there shall be assessed and collected a tax of ten cents per pound, to be paid by the manufacturer thereof; and any fractional part of a pound in a package shall be taxed as a pound: *Provided*, When oleomargarine is free from artificial coloration that causes it to look like butter of any shade of yellow said tax shall be one-fourth of one cent per pound. The tax levied by this section shall be represented by coupon stamps; and the provisions of existing laws governing the engraving, issue, sale, accountability, effacement, and destruction of stamps relating to tobacco and snuff, as far as applicable, are hereby made to apply to stamps provided for by this section.

Tax per pound.

Tax represented
by coupon
stamps.

Use of an ingredient in minute quantities to impart yellow color subjects product to tax at rate of 10 cents per pound. (T. D. 564.)

Use of an ingredient containing artificial coloring which imparts shade of yellow makes finished product taxable at 10 cents. (Regulations No. 9.)

Butter artificially colored as an ingredient in oleomargarine subjects product to higher rate of tax. (*McCray v. United States*, 195 U. S., 27; T. D. 795.)

Palm oil constitutes artificial coloration. (*Cliff v. United States*, 195 U. S., 159; T. D. 839.)

Palm oil. (*Moxley v. Hertz*, 216 U. S., 344, T. D. 1596; affirming 173 Fed., 728, T. D. 1168; 185 Fed., 757, T. D. 1671.)

Coloring for customer after sale. (*W. H. Zinn Co. v. United States*, T. D. 1517.)

Use of a rubber stamp for cancellation of tax-paid stamps for oleomargarine, in lieu of a stencil plate of brass or copper. (T. D. 614.)

See chapter under heading "Tobacco and Snuff" for laws relating to stamps.

Application for receiver. (*United States v. Capital City Dairy Co.*, T. D. 2209.)

Colored oleomargarine taken from cave under place of business into salesroom in same building is removed, so as to be taxable. (*Marhoefer v. United States*, 241 Fed., 48.)

Assessment of
tax within two
years.

SEC. 9. [*Act of August 2, 1886 (24 Stat., 211).*] That whenever any manufacturer of oleomargarine sells, or removes for sale or consumption, any oleomargarine upon which the tax is required to be paid by stamps, without the use of the proper stamps, it shall be the duty of the Commissioner of Internal Revenue, within a period of not more than two years after such sale or removal, upon satisfactory proof, to estimate the amount of tax which has been omitted to be paid, and to make an assessment therefor and certify the same to the collector. The tax so assessed shall be in addition to the penalties imposed by law for such sale or removal.

See Regulations No. 1, concerning assessments.

Tax on im-
ported oleomar-
garine.

Stamps.

Warehousing
imported oleo-
margarine.

Penalty for
violation by
customs officer.

SEC. 10. [*Act of August 2, 1886 (24 Stat., 211).*] That all oleomargarine imported from foreign countries shall, in addition to any import duty imposed on the same, pay an internal revenue tax of fifteen cents per pound, such tax to be represented by coupon stamps as in the case of oleomargarine manufactured in the United States. The stamps shall be affixed and canceled by the owner or importer of the oleomargarine while it is in the custody of the proper custom-house officers; and the oleomargarine shall not pass out of the custody of said officers until the stamps have been so affixed and canceled, but shall be put up in wooden packages, each containing not less than ten pounds, as prescribed in this act for oleomargarine manufactured in the United States, before the stamps are affixed; and the owner or importer of such oleomargarine shall be liable to all the penal provisions of this act prescribed for manufacturers of oleomargarine manufactured in the United States. Whenever it is necessary to take any oleomargarine so imported to any place other than the public stores of the United States for the purpose of affixing and canceling such stamps, the collector of customs of the port where such oleomargarine is entered shall designate a bonded warehouse to which it shall be taken, under the control of such customs officer as such collector may direct; and every officer of customs who permits any such oleomargarine to pass out of his custody or control without compliance by the owner or importer thereof with the provisions of this section relating thereto, shall be guilty of a misdemeanor, and shall be fined not less than one thousand dollars nor more than five thousand dollars, and imprisoned not less than six months nor more than three years. Every person who sells or offers for sale any imported oleomargarine, or oleomargarine purporting or claimed to have been imported, not put up in packages and stamped as provided

by this act, shall be fined not less than five hundred dollars nor more than five thousand dollars, and be imprisoned not less than six months nor more than two years.

Penalty for selling if not properly stamped.

Oleomargarine exported free of tax and reimported dutiable at domestic rates remitted. (T. D. 669.)

SEC. 11. [*Act of August 2, 1886 (24 Stat., 211).*] That every person who knowingly purchases or receives for sale any oleomargarine which has not been branded or stamped according to law shall be liable to a penalty of fifty dollars for each such offense.

Penalty for purchasing oleomargarine not properly stamped.

SEC. 12. [*Act of August 2, 1886 (24 Stat., 211).*] That every person who knowingly purchases or receives for sale any oleomargarine from any manufacturer who has not paid the special tax shall be liable for each offense to a penalty of one hundred dollars, and to a forfeiture of all articles so purchased or received, or of the full value thereof.

Penalty for purchasing from manufacturers not having paid special tax.

SEC. 13. [*Act of August 2, 1886 (24 Stat., 211).*] That whenever any stamped package containing oleomargarine is emptied, it shall be the duty of the person in whose hands the same is to destroy utterly the stamps thereon; and any person who willfully neglects or refuses so to do shall for each such offense be fined not exceeding fifty dollars, and imprisoned not less than ten days nor more than six months.

Stamps on empty packages to be destroyed.

Penalty.

And any person who fraudulently gives away or accepts from another, or who sells, buys, or uses for packing oleomargarine, any such stamped package, shall for each such offense be fined not exceeding one hundred dollars, and be imprisoned not more than one year.

Any revenue officer may destroy any emptied oleomargarine package upon which the tax-paid stamp is found.

Failure to destroy stamp on empty package. (*Morris v. United States*, 161 Fed., 672; *Vermont v. United States*, 174 Fed., 792; T. D. 1579; *United States v. White & Paller*, T. D. 1334; *United States v. Ripper*, 178 Fed., 24; *Ripper v. United States*, 179 Fed., 497; T. D. 1609.)

It is doubtful if the word "fraudulently" was intended to qualify any other act than that of giving away or accepting from another any such package. (*Morris v. United States*, 161 Fed., 672.)

SEC. 14. [*Act of August 2, 1886 (24 Stat., 212).*] That there shall be in the office of the Commissioner of Internal Revenue an analytical chemist and a microscopist, who shall each be appointed by the Secretary of the Treasury, and shall each receive a salary of two thousand five hundred dollars per annum; and the Commissioner of Internal Revenue may, whenever in his judgment the necessities of the service so require, employ chemists and microscopists, to be paid such compensation as he may deem proper, not exceeding in the aggregate any appropriation made for that purpose.

Chemists and microscopists.

Commissioner
to decide con-
tested cases.

And such Commissioner is authorized to decide what substances, extracts, mixtures, or compounds which may be submitted for his inspection in contested cases are to be taxed under this act; and his decision in matters of taxation under this act shall be final.

Appeal.

The Commissioner may also decide whether any substance made in imitation or semblance of butter, and intended for human consumption, contains ingredients deleterious to the public health; but in case of doubt or contest his decision in this class of cases may be appealed from to a board hereby constituted for the purpose, and composed of the Surgeon-General of the Army, the Surgeon-General of the Navy, and the Commissioner (now Secretary) of Agriculture; and the decisions of this board shall be final in the premises.

Forfeiture of
unstamped
packages and
deleterious oleo-
margarine.

SEC. 15. [*Act of August 2, 1886 (24 Stat., 212).*] That all packages of oleomargarine subject to tax under this act that shall be found without stamps or marks as herein provided, and all oleomargarine intended for human consumption which contains ingredients adjudged, as hereinbefore provided, to be deleterious to the public health, shall be forfeited to the United States. Any person who shall willfully remove or deface the stamps, marks, or brands on a package containing oleomargarine taxed as provided herein shall be guilty of a misdemeanor, and shall be punished by a fine of not less than one hundred dollars nor more than two thousand dollars, and by imprisonment for not less than thirty days nor more than six months.

Penalty for
removing stamps.

Wilkins v. United States, 96 Fed., 837; T. D. 21623.

Indictment; defendants are entitled to be informed of the charge against them with more definiteness than is to be found by following the words of the statute. (*United States v. Joyce*, 138 Fed. 457.)

Oleomargarine
for export.

SEC. 16. [*Act of August 2, 1886 (24 Stat., 212).*] That oleomargarine may be removed from the place of manufacture for export to a foreign country without payment of tax or affixing stamps thereto, under such regulations and the filing of such bonds and other security as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe. Every person who shall export oleomargarine shall brand upon every tub, firkin, or other package containing such article the word "Oleomargarine," in plain Roman letters not less than one-half inch square.

Sales to vessels in ports of this country not exportation. (T. D. 657; *Swan & Finch Co. v. United States*, 190 U. S., 143.)

See Regulations No. 29, concerning exportations.

Oleomargarine reimported subject to duty equal to the internal-revenue tax, although returned to the factory for remanufacture. (T. D. 857.)

Withdrawals of oleomargarine free of tax for export where the tax remitted amounts to \$100 or over can not be afterwards separated into small consignments for the purpose of being accounted for as shipments on which the tax is less than \$100. (T. D. 1662.)

SEC. 17. [*Act of August 2, 1886 (24 Stat., 212).*] That whenever any person engaged in carrying on the business of manufacturing oleomargarine defrauds, or attempts to defraud, the United States of the tax on the oleomargarine produced by him, or any part thereof, he shall forfeit the factory and manufacturing apparatus used by him, and all oleomargarine and all raw material for the production of oleomargarine found in the factory and on the factory premises, and shall be fined not less than five hundred dollars nor more than five thousand dollars, and be imprisoned not less than six months nor more than three years.

Forfeiture and penalty in case of fraud by manufacturer.

Indictment held not objectionable for failure to affirmatively allege that tax was assessable. (*Enders v. United States*, 187 Fed., 754; T. D. 1669.)

Indictment based on section sustained; employee can be convicted under this section. (*Marhoefer v. United States*, 241 Fed., 48.)

Indictment here based on this section held sufficient; not necessary to prove sales. (*May v. United States*, 199 Fed., 42, 53; T. Ds. 1797, 1798.)

Indictment charging in language of statute sufficient without setting out particular acts. (*Hardesty v. United States*, 168 Fed., 25.)

Offense may be committed by a corporation; indictment here held not sufficient. (*United States v. Orr*, 223 Fed., 222.)

Indictment considered and held to charge conspiracy to defraud United States, rather than conspiracy to commit offense described in this section. (*United States v. Orr*, 223 Fed., 220.)

Criminal prosecution of stockholder and director of corporation for defrauding United States of tax resulting in acquittal is not a bar to subsequent proceeding for forfeiture of the oleomargarine and apparatus and raw materials owned by the corporation based upon the same alleged offense. (*United States v. Manufacturing Apparatus, Oleomargarine, and Raw Materials of Western Oleomargarine Co.*, 240 Fed., 235.)

Forfeiture and penalty for defrauding or attempting to defraud. (*Hardesty v. United States*, 168 Fed., 25.)

Information for forfeiture of oleomargarine plant. The language of this section is similar to that in regard to distilled spirits (sec. 3257), and decision under latter section applicable. (*United States v. Manufacturing Apparatus, etc.*, of New Jersey Melting & Churning Co., 141 Fed., 475.)

SEC. 18. [*Act of August 2, 1886 (24 Stat., 212).*] That if any manufacturer of oleomargarine, any dealer therein, or any importer or exporter thereof shall knowingly or willfully omit, neglect, or refuse to do, or cause to be done, any of the things required by law in the carrying on or conducting of his business, or shall do anything by this act prohibited, if there be no specific penalty or punishment imposed by any other section of this act for the neglecting, omitting, or refusing to do, or for the doing or causing to be done, the thing required or prohibited, he shall pay a penalty of one thousand dollars; and if the person so offending be the manufacturer of or a wholesale dealer in oleomargarine, all the oleomarga-

Forfeiture for failure to comply with law.

rine owned by him, or in which he has any interest as owner, shall be forfeited to the United States.

Sales in quantities exceeding 10 pounds at one time by retail dealers, penalty provided in section 18 applies. (*United States v. Ripper*, 178 Fed., 24; *Ripper v. United States*, 179 Fed., 497, T. D. 1609.)

Recovery of fines.

SEC. 19. [*Act of August 2, 1886 (24 Stat., 212).*] That all fines, penalties, and forfeitures imposed by this act may be recovered in any court of competent jurisdiction.

Regulations.

SEC. 20. [*Act of August 2, 1886 (24 Stat., 212).*] That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may make all needful regulations for the carrying into effect of this act.

See citations under section 6, power of Commissioner to make regulations, page 432.

Act in effect Oct. 31, 1886.

SEC. 21. [*Act of August 2, 1886 (24 Stat., 213).*] That this act shall go into effect on the ninetieth day after its passage; and all wooden packages containing ten or more pounds of oleomargarine found on the premises of any dealer on or after the ninetieth day succeeding the date of the passage of this act shall be deemed to be taxable under section eight of this act, and shall be taxed, and shall have affixed thereto the stamps, marks, and brands required by this act or by regulations made pursuant to this act; and for the purpose of securing the affixing of the stamps, marks, and brands required by this act, the oleomargarine shall be regarded as having been manufactured and sold, or removed from the manufactory for consumption or use, on or after the day this act takes effect; and such stock on hand at the time of the taking effect of this act may be stamped, marked, and branded under special regulations of the Commissioner of Internal Revenue, approved by the Secretary of the Treasury; and the Commissioner of Internal Revenue may authorize the holder of such packages to mark and brand the same and to affix thereto the proper tax-paid stamps.

Stock on hand.

See section 7, act May 9, 1902, page 443.

Butter defined.

SEC. 4. [*Act of May 9, 1902 (32 Stat., 194).*] That for the purpose of this Act "butter" is hereby defined to mean an article of food as defined in "An Act defining butter, also imposing a tax upon and regulating the manufacture, sale, importation, and exportation of oleomargarine," approved August second, eighteen hundred and eighty-six; that "adulterated butter" is hereby defined to mean a grade of butter produced by mixing, reworking, rechurning in milk or cream, refining, or in any way producing a uniform, purified, or improved product from different lots or parcels of melted or unmelted butter or butter fat, in which any acid, alkali, chemical, or any substance whatever is introduced or used for the purpose or with the effect of deodorizing or removing therefrom rancidity, or any butter or butter fat

Adulterated butter defined.

with which there is mixed any substance foreign to butter as herein defined, with intent or effect of cheapening in cost the product or any butter in the manufacture or manipulation of which any process or material is used with intent or effect of causing the absorption of abnormal quantities of water, milk, or cream; that "process butter" or "renovated butter" is hereby defined to mean butter which has been subjected to any process by which it is melted, clarified or refined and made to resemble genuine butter, always excepting "adulterated butter" as defined by this Act. * * *

Process or renovated butter defined.

The provisions of this section imposing special taxes on manufacturers of renovated and adulterated butter and on dealers in adulterated butter will be found on page 174, under head of Special Taxes; also the provision imposing fines for nonpayment of special tax, page 160.

Manufacturer of adulterated butter defined. The law imposing tax on adulterated butter is a revenue measure. (Ohio Creamery & Supply Co. v. Rodway, T. D. 1871.)

That every manufacturer of process or renovated butter or adulterated butter shall file with the collector of internal revenue of the district in which his manufactory is located such notices, inventories, and bonds, shall keep such books and render such returns of material and products, shall put up such signs and affix such number of his factory, and conduct his business under such surveillance of officers and agents as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulation require. But the bond required of such manufacturer shall be with sureties satisfactory to the collector of internal revenue, and in a penal sum of not less than five hundred dollars; and the sum of said bond may be increased from time to time and additional sureties required at the discretion of the collector or under instructions of the Commissioner of Internal Revenue.

Manufacturer's notices, bonds, inventories, etc.

Signs.

That all adulterated butter shall be packed by the manufacturer thereof in firkins, tubs, or other wooden packages not before used for that purpose, each containing not less than ten pounds, and marked, stamped, and branded as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe; and all sales made by manufacturers of adulterated butter shall be in original stamped packages.

Manufacturer's packages.

Dealers in adulterated butter must sell only original or from original stamped packages, and when such original stamped packages are broken the adulterated butter sold from same shall be placed in suitable wooden or paper packages, which shall be marked and branded as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe. Every person who knowingly sells or offers for sale, or delivers or offers to deliver, any adulterated butter in any other form than in new wooden or paper packages as above described, or

Dealers' packages.

Penalty.

who packs in any package any adulterated butter in any manner contrary to law, or who falsely brands any package or affixes a stamp on any package denoting a less amount of tax than that required by law, shall be fined for each offense not more than one thousand dollars and be imprisoned not more than two years.

Caution label.

That every manufacturer of adulterated butter shall securely affix, by pasting, on each package containing adulterated butter manufactured by him a label on which shall be printed, besides the number of the manufactory and the district and State in which it is situated, these words: "Notice.—That the manufacturer of the adulterated butter herein contained has complied with all the requirements of law. Every person is cautioned not to use either this package again or the stamp thereon, nor to remove the contents of this package without destroying said stamp, under the penalty provided by law in such cases." Every manufacturer of adulterated butter who neglects to affix such label to any package containing adulterated butter made by him, or sold or offered for sale for or by him, and every person who removes any such label so affixed from any such package shall be fined fifty dollars for each package in respect to which such offense is committed.

Penalty.

Tax on adulterated butter and process or renovated butter.

That upon adulterated butter, when manufactured or sold or removed for consumption or use, there shall be assessed and collected a tax of ten cents per pound, to be paid by the manufacturer thereof, and any fractional part of a pound shall be taxed as a pound, and that upon process or renovated butter, when manufactured or sold or removed for consumption or use, there shall be assessed and collected a tax of one-fourth of one cent per pound to be paid by the manufacturer thereof, and any fractional part of a pound shall be taxed as a pound. The tax to be levied by this section shall be represented by coupon stamps, and the provisions of existing laws governing engraving, issuing, sale, accountability, effacement, and destruction of stamps relating to tobacco and snuff, as far as applicable, are hereby made to apply to the stamps provided by this section.

Stamps.

That the provisions of sections nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, and twenty-one of "An Act defining butter, also imposing a tax upon and regulating the manufacture, sale, importation, and exportation of oleomargarine," approved August second, eighteen hundred and eighty-six, shall apply to manufacturers of "adulterated butter" to an extent necessary to enforce the marking, branding, identification, and regulation of the exportation and importation of adulterated butter.

Butter containing 16 per cent or more of moisture is held to be adulterated. (Regulations No. 9, concerning adulterated butter and process or renovated butter.)

Definition of adulterated butter. (*Rosemary Creamery Company v. Cole*, T. D. 2347.)

Explanation of regulations concerning adulterated butter. (T. D. 1009.)

A regulation defining what shall be held to be an abnormal quantity of moisture has the force and effect of law. (*Ohio Creamery & Supply Co. v. Rodway*, T. D. 1871.)

Authority of Commissioner to fix moisture limit—intent to manufacture not material if process has that effect. (*Coopersville Cooperative Creamery Co. v. Lemon*, 163 Fed., 145, T. Ds. 1371, 1679; *Ohio Creamery & Supply Co. v. Rodway*, T. D. 1871. *Contra*:—*Baldwin v. Williams*, 233 Fed., 607; *United States v. 11,150 Pounds of Butter (Milton Dairy Co.)*, 188 Fed., 157, 195 Fed., 657. The decision in the case of the Milton Dairy Co. is not accepted by this office as a precedent. Revenue agents will report all cases where adulterated butter is found to have a moisture content of 16 per cent or more. T. D. 1809.)

Refined butter, manufactured from salt, glucose, and imported low-grade or "grease" butter, is held subject to tax as adulterated butter. (T. D. 557.)

Ladled butter containing 16 per cent of moisture liable to stamp tax at 10 cents per pound. (T. D. 783.)

Evidence showing reasonable diligence to keep moisture content within requirements of law not sufficient to relieve from liability. Use of Gray's tester. (*West Point Butter and Creamery Co. v. Hammond*, T. D. 1667.)

Forwarding samples for analysis. (T. D. 1587.)

Method of sampling. (T. D. 1618; *Ohio Creamery & Supply Co. v. Rodway*, T. D. 1871.)

No assessment should be recommended on the basis of a single sample unless there is other evidence. (T. D. 1539.)

Intent not necessary. (*Lawrence v. Seyburn*, 202 Fed., 913; T. D. 1851.)

Decision of Commissioner that certain substance or compound constitutes adulterated butter conclusive where there has been hearing and arbitrary conduct in legal sense not complained of. (*New York Butter Packing Co. v. Edwards*, T. D. 2303.)

Decision of Commissioner is conclusive, where no unfairness or irregularity charged. (*Cohen v. Edwards*, 256 Fed., 964.)

SEC. 5. [*Act of May 9, 1902 (32 Stat., 196)*.] All parts of an Act providing for an inspection of meats for exportation, approved August thirtieth, eighteen hundred and ninety, and of an Act to provide for the inspection of live cattle, hogs, and the carcasses and products thereof which are the subjects of interstate commerce, approved March third, eighteen hundred and ninety-one, and of amendment thereto approved March second, eighteen hundred and ninety-five, which are applicable to the subjects and purposes described in this section shall apply to process or renovated butter. And the Secretary of Agriculture is hereby authorized and required to cause a rigid sanitary inspection to be made, at such times as he may deem proper or necessary, of all factories and storehouses where process or renovated butter is manufactured, packed, or prepared for market, and of the products thereof and materials going into the manufacture of the

Inspection of
renovated butter.

Marking of
renovated butter.

Secretary of
Agriculture shall
make regulations.

Penalty.

same. All process or renovated butter and the packages containing the same shall be marked with the words "Renovated Butter" or "Process Butter" and by such other marks, labels, or brands and in such manner as may be prescribed by the Secretary of Agriculture, and no process or renovated butter shall be shipped or transported from its place of manufacture into any other State or Territory or the District of Columbia, or to any foreign country, until it has been marked as provided in this section. The Secretary of Agriculture shall make all needful regulations for carrying this section into effect, and shall cause to be ascertained and reported from time to time the quantity and quality of process or renovated butter manufactured, and the character and the condition of the material from which it is made. And he shall also have power to ascertain whether or not materials used in the manufacture of said process or renovated butter are deleterious to health or unwholesome in the finished product, and in case such deleterious or unwholesome materials are found to be used in product intended for exportation or shipment into other States or in course of exportation or shipment he shall have power to confiscate the same. Any person, firm, or corporation violating any of the provisions of this section shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars or by imprisonment not less than one month nor more than six months, or by both said punishments, in the discretion of the court.

Removal of marks, brands, stamps, and caution labels a crime. (United States v. Green, 137 Fed., 179; T. D. 980, T. D. 578; *contra*, United States v. Bohl, 125 Fed., 625.)

The Food and Drugs Act of June 30, 1906 (34 Stat., 768). The Secretary of Agriculture is charged with the enforcement of this act.

NOTE.—No provision is made in the act of May 9, 1902, for the exportation, free of tax, of renovated butter nor for drawback of tax on such articles when exported. Consequently, all renovated butter for export must be stamped and marked the same as for the domestic market.

[Act Apr. 23, 1904, making appropriation for Department of Agriculture.]

* * * That the Secretary of Agriculture may construe the provisions of the act of March third, eighteen hundred and ninety-one, as amended March second, eighteen hundred and ninety-five, for the inspection of live cattle and products thereof, to include dairy products intended for exportation to any foreign country and may apply, under rules and regulations to be prescribed by him, the provisions of said act for inspection and certification appropriate for ascertaining the purity and quality of such products and may cause the same to be so marked, stamped, or labeled as to secure their identity and make known in markets of foreign countries to which they may be sent from the United States their purity, quality, and grade; and all the provisions of said act relating to live cattle and products thereof for export shall apply to dairy products so inspected and certified.

(See Regulations No. 9 and No. 29.)

SEC. 6. [*Act of May 9, 1902 (32 Stat., 197).*] That ^{Returns, books, etc., of whole-sale dealers.} wholesale dealers in oleomargarine, process, renovated, or adulterated butter shall keep such books and render such returns in relation thereto as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may, by regulation, require; and such books shall be open at all times to the inspection of any internal revenue officer or agent. And any person who willfully violates any of the provisions of this section shall for each such offense be fined not less than fifty dollars and not exceeding five hundred dollars, and imprisoned not less than thirty days nor more than six months.

Section 41, act of October 1, 1890 (26 Stat., 621), relative to wholesale dealers in oleomargarine keeping books and rendering returns superseded by this section.

Collectors of internal revenue should require power of attorney, in proper legal form, from agents of manufacturers of oleomargarine, etc., who render and sign monthly returns. (T. D. 1263.)

Failure by wholesale dealer to keep books and render returns; although corporations are not mentioned in sec. 6 it was intended to embrace them. (United States v. Union Supply Co., 215 U. S., 50; T. D. 1564.)

An indictment for failure to make entries in book should aver that the dealer did not make nor cause to be made such entries. (United States v. Lamson, 162 Fed., 165.)

SEC. 7. [*Act of May 9, 1902 (32 Stat., 197).*] This act shall take effect on the first day of July, nineteen hundred and two.

Oleomargarine law constitutional. (McCray v. United States, 195 U. S., 27; T. D. 795; Schick v. United States, Broadwell v. United States, 195 U. S., 65; T. D. 802. In re Kollock, 165 U. S., 526; Dougherty v. United States, 108 Fed., 56; 47 C. C. A., 195.)

The oleomargarine act is not unconstitutional as a delegation of legislative power to an administrative branch of the Government. (Lockwood v. United States, 178 Fed., 437.)

Constitutionality of State laws relating to oleomargarine: The statute of Pennsylvania prohibiting the manufacture and sale of oleomargarine within the State not unconstitutional. (Powell v. Pennsylvania, 127 U. S., 675; 34 Int. Rev. Rec., 166.)

New Hampshire law prohibiting sale of oleomargarine unless colored pink unconstitutional. (Collins v. New Hampshire, 171 U. S., 30.)

CHAPTER TWELVE.

FILLED CHEESE.

[Act of June 6, 1896. (29 Stat., 253.)]

Sec.	Sec.
1 and 2. Definitions.	14. Destruction of stamps on empty packages.
5. Manufacturers' notice, books, bonds, etc.	15. Scientific tests.
6, 7, and 8. Marks, signs, label, stamps.	16 and 17. Relative to fines and forfeitures.
9 and 10. Tax on filled cheese.	18. Regulations authorized.
11. Imported filled cheese.	19. When act to take effect.
12 and 13. Penalties.	

An act defining cheese, also imposing a tax upon and regulating the manufacture, sale, importation, and exportation of "filled cheese."

SEC. 1. [*Act of June 6, 1896 (29 Stat., 253).*] That for the purpose of this Act, the word "cheese" shall be understood to mean the food product known as cheese, and which is made from milk or cream and without the addition of butter, or any animal, vegetable, or other oils or fats foreign to such milk or cream, with or without additional coloring matter. Cheese defined.

SEC. 2. That for the purposes of this Act certain substances and compounds shall be known and designated as "filled cheese," namely: All substances made of milk or skimmed milk, with the admixture of butter, animal oils or fats, vegetable or any other oils, or compounds foreign to such milk, and made in imitation or semblance of cheese. Filled cheese defined.

Enacting clause, act of August 2, 1886, as amended by act of May 9, 1902, makes all imitation dairy products subject to laws of States into which transported.

Special Taxes.—Sections 3 and 4 of the act of June 6, 1896, imposing special taxes on manufacturers and dealers and penalties for failure to pay special taxes, will be found in chapter 3, "Special Taxes," page 176.

SEC. 5. That every manufacturer of filled cheese shall file with the collector of internal revenue of the district in which his manufactory is located such notices, inventories, and bonds, shall keep such books and render such returns of materials and products, shall put up such signs and affix such number to his factory, and conduct his business under such surveillance of officers and agents as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulation require. But the bond required of such manufacturer shall be with sureties satisfactory to the collector of internal revenue, and in a penal sum of not Bonds, notices, and inventories of manufacturer.
Books and returns.

Penalty.

less than five thousand dollars; and the amount of said bond may be increased from time to time, and additional sureties required, at the discretion of the collector or under instructions of the Commissioner of Internal Revenue. Any manufacturer of filled cheese who fails to comply with the provisions of this section or with the regulations herein authorized, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than five hundred nor more than one thousand dollars.

Packages.
Manufacturers'
marks and
brands.

SEC. 6. That filled cheese shall be packed by the manufacturers in wooden packages only, not before used for that purpose, and marked, stamped, and branded with the words "filled cheese" in black-faced letters not less than two inches in length, in a circle in the center of the top and bottom of the cheese; and in black-faced letters of not less than two inches in length in line from the top to the bottom of the cheese, on the side in four places equidistant from each other; and the package containing such cheese shall be marked in the same manner, and in the same number of places, and in the same description of letters as above provided for the marking of the cheese; and all sales or consignments made by manufacturers of filled

Retail dealers.

cheese to wholesale dealers in filled cheese or to exporters of filled cheese shall be in original stamped packages. Retail dealers in filled cheese shall sell only from original stamped packages, and shall pack the filled cheese when sold in suitable wooden or paper packages, which shall be marked and branded in accordance with rules and regulations to be prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury. Every person who knowingly sells or offers to sell, or delivers or offers to deliver, filled cheese in any other form than in new wooden or paper packages, marked and branded as hereinbefore provided and as above described, or who packs in any package or packages filled cheese in any manner contrary to law, or who falsely brands any package or affixes a stamp on any package denoting a less amount of tax than that required by law, shall upon conviction thereof be fined for each and every offense not less than fifty dollars and not more than five hundred dollars or be imprisoned not less than thirty days nor more than one year.

Penalties.

Signs of whole-
sale and retail
dealers.

SEC. 7. That all retail and wholesale dealers in filled cheese shall display in a conspicuous place in his or their sales room a sign bearing the words "Filled cheese sold here" in black-faced letters not less than six inches in length, upon a white ground, with the name and number of the revenue district in which his or their business is conducted; and any wholesale or retail dealer in filled cheese who fails or neglects to comply with the provisions of this section shall be deemed guilty of a misdemeanor, and shall on conviction thereof be fined for each and

every offense not less than fifty dollars and not more than two hundred dollars.

Penalty.

SEC. 8. That every manufacturer of filled cheese shall securely affix, by pasting on each package containing filled cheese manufactured by him, a label on which shall be printed, besides the number of the manufactory and the district and state in which it is situated, these words: "Notice.—The manufacturer of the filled cheese herein contained has complied with all the requirements of the law. Every person is cautioned not to use either this package again or the stamp thereon again, nor to remove the contents of this package without destroying said stamp, under the penalty provided by law in such cases." Every manufacturer of filled cheese who neglects to affix such label to any package containing filled cheese made by him or sold or offered for sale by or for him, and every person who removes any such label so affixed from any such package, shall be fined fifty dollars for each package in respect to which such offense is committed.

Label.

Penalty.

SEC. 9. That upon all filled cheese which shall be manufactured there shall be assessed and collected a tax of one cent per pound, to be paid by the manufacturer thereof; and any fractional part of a pound in a package shall be taxed as a pound. The tax levied by this section shall be represented by coupon stamps; and the provisions of existing laws governing the engraving, issue, sale, accountability, effacement, and destruction of stamps relating to tobacco and snuff, as far as applicable, are hereby made to apply to stamps provided for by this section.

Tax on product.

Coupon stamps.

See sections 3218, 3360, 3445, and 3446, Revised Statutes. Filled cheese for export to be tax paid. (Cornell v. Coyne, 192 U. S., 418; T. D. 757.)

SEC. 10. That whenever any manufacturer of filled cheese sells or removes for sale or consumption any filled cheese upon which the tax is required to be paid by stamps, without paying such tax, it shall be the duty of the Commissioner of Internal Revenue, within a period of not more than two years after such sale or removal, upon satisfactory proof, to estimate the amount of tax which has been omitted to be paid and to make an assessment therefor and certify the same to the collector. The tax so assessed shall be in addition to the penalties imposed by law for such sale or removal.

Assessment of stamp tax.

SEC. 11. That all filled cheese as herein defined imported from foreign countries shall, in addition to any import duty imposed on the same, pay an internal-revenue tax of eight cents per pound, such tax to be represented by coupon stamps; and such imported filled cheese and the packages containing the same shall be stamped, marked, and branded, as in the case of filled cheese manufactured in the United States.

Imported tax on.

Penalty.

SEC. 12. That any person who knowingly purchases or receives for sale any filled cheese which has not been branded or stamped according to law, or which is contained in packages not branded or marked according to law, shall be liable to a penalty of fifty dollars for each such offense.

Penalty.

SEC. 13. That every person who knowingly purchases or receives for sale any filled cheese from any manufacturer or importer who has not paid the special tax herein provided for shall be liable, for each offense, to a penalty of one hundred dollars and to a forfeiture of all articles so purchased or received, or of the full value thereof.

Empty pack-
ages; stamps to
be destroyed.

SEC. 14. That whenever any stamped package containing filled cheese is emptied it shall be the duty of the person in whose hands the same is to destroy the stamps thereon; and any person who willfully neglects or refuses so to do shall, for each such offense, be fined not exceeding fifty dollars or imprisoned not less than ten days nor more than six months.

Deleterious in-
gredients, Com-
missioner to de-
cide.

Appeal.

SEC. 15. That the Commissioner of Internal Revenue is authorized to have applied scientific tests, and to decide whether any substances used in the manufacture of filled cheese contain ingredients deleterious to health. But in case of doubt or contest his decision in this class of cases may be appealed from to a board hereby constituted for the purpose, and composed of the Surgeon-General of the Army, the Surgeon-General of the Navy, and the Secretary of Agriculture, and the decision of this board shall be final in the premises.

Forfeiture.

SEC. 16. That all packages of filled cheese subject to tax under this Act that shall be found without stamps or marks as herein provided, and all filled cheese intended for human consumption which contains ingredients adjudged as hereinbefore provided to be deleterious to the public health, shall be forfeited to the United States.

Fines, penal-
ties, etc., recov-
ery.

SEC. 17. That all fines, penalties, and forfeitures imposed by this Act may be recovered in any court of competent jurisdiction.

Regulations.

SEC. 18. That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall make all needful regulations for the carrying into effect of the provisions of this Act.

Regulations No. 22 relative to filled cheese.

Effective, date
when.

SEC. 19. That this Act shall go into effect on the ninetyeth day after its passage, and all wooden packages containing ten or more pounds of filled cheese found on the premises of any dealer on and after the ninetyeth day succeeding the date of the passage of this Act, shall be deemed to be taxable under section nine of this Act, and shall be taxed, and shall have affixed thereto the stamps, marks, and brands required by this Act or by regulations made pursuant to this Act; and for the purpose of securing the affixing of the stamps, marks, and brands required

by this Act, the filled cheese shall be regarded as having been manufactured and sold or removed from the manufactory for consumption or use on or after the day this Act takes effect; and such stock on hand at the time of the taking effect of this Act may be stamped, marked, and branded under special regulations of the Commissioner of Internal Revenue, approved by the Secretary of the Treasury; and the Commissioner of Internal Revenue may authorize the holder of such packages to mark and brand the same and to affix thereto the proper tax-paid stamps.

Circular letter to collectors and revenue agents relative to the enforcement of the law imposing a tax on filled cheese. (T. D. 1516.)

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CHAPTER THIRTEEN.

MIXED FLOUR.

[Sections 35 to 49, act of June 13, 1898 (30 Stat., 448), as amended by act April 12, 1902 (32 Stat., 90).]

Sec.

- 35. Mixed flour defined.
- 36. Special tax.
- 37. Marks and brands; penalty.
- 38. Packages; penalty.
- 39. Label; penalty.
- 40. Tax, stamps, laws applicable. Re-packed flour; penalty.
- 41. Assessment of tax on mixed flour when removed without stamps.
- 42. Tax on imported mixed flour; penalty.

Sec.

- 43. Penalty and forfeiture.
- 44. Removal for export.
- 45. Destruction of stamps on empty packages; penalty.
- 46. Penalties recoverable.
- 47. Regulations. Additional clerks and agents.
- 48. Penalty for subsequent violations.
- 49. Date when act takes effect.

SEC. 35. [Act June 13, 1898 (30 Stat., 467), as amended by sec. 13, act March 2, 1901 (31 Stat., 949), and by sec. 9, act of April 12, 1902 (32 Stat., 99).] That for the purposes of this Act, the words "mixed flour" shall be taken and construed to mean the food product resulting from the grinding or mixing together of wheat, or wheat flour, as the principal constituent in quantity, with any other grain, or the product of any other grain, or other material, except such material, and not the product of any grain, as is commonly used for baking purposes: *Provided*, That when the product resulting from the grinding or mixing together of wheat or wheat flour with any other grain, or the product of any other grain, of which wheat or wheat flour is not the principal constituent as specified in the foregoing definition, is intended for sale, or is sold, or offered for sale as wheat flour, such product shall be held to be mixed flour within the meaning of this Act.

Mixed flour defined.

See Articles 1 and 2, Regulations No. 25, revised July, 1918.

"Pancake" and "Compound" flours are classed as "mixed flour" if wheat flour is principal ingredient. (T. D. 971.)

SEC. 36. That every person, firm, or corporation, before engaging in the business of making, packing, or repacking mixed flour, shall pay a special tax at the rate of twelve dollars per annum, the same to be paid and posted in accordance with the provisions of sections thirty-two hundred and forty-two and thirty-two hundred and thirty-nine of the Revised Statutes, and subject to the fines and penalties therein imposed for any violation thereof.

Special taxes.

Investigations by collectors as to proper returns. (T. D. 471.)

Packages,
marks and
brands.

Cards in pack-
ages.

Penalty.

SEC. 37. That every person, firm, or corporation making, packing, or repacking mixed flour shall plainly mark or brand each package containing the same with the words "mixed flour" in plain black letters not less than two inches in length, together with the true weight of such package, the names of the ingredients composing the same, the name of the maker or packer, and the place where made or packed. In addition thereto, such maker or packer shall place in each package a card not smaller than two inches in width by three inches in length, upon which shall be printed the words "mixed flour," together with the names of the ingredients composing the same, and the name of the maker or packer, and the place where made or packed. Any person, firm, or corporation making, packing, or repacking mixed flour hereunder, failing to comply with the provisions of this section, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than two hundred and fifty dollars and not more than five hundred dollars, or be imprisoned not less than sixty days nor more than one year.

Articles 12-16, Regulations No. 25, revised July, 1918.

Packages, char-
acter.

Penalty.

Label.

Penalty.

SEC. 38. That all sales and consignments of mixed flour shall be in packages not before used for that purpose; and every person, firm, or corporation knowingly selling or offering for sale any mixed flour in other than marked and branded packages, as required by the provisions of this Act relating to the manufacture and sale of mixed flour, or who packs in any package or packages any mixed flour in any manner contrary to the provisions relating to the manufacture and sale of mixed flour of this Act, or who falsely marks or brands any package or packages containing mixed flour, or unlawfully removes such marks or brands, shall, for each such offense, be punished by a fine of not less than two hundred and fifty dollars and not more than five hundred dollars, or by imprisonment not less than thirty days nor more than one year.

SEC. 39. That in addition to the branding and marking of mixed flour as herein provided, there shall be affixed to the packages containing the same a label in the following words: "Notice.—The (manufacturer or packer, as the case may be) of the mixed flour herein contained has complied with all the requirements of law. Every person is cautioned not to use this package or label again or to remove the contents without destroying the revenue stamp thereon, under the penalty prescribed by law in such cases." Every person, firm, or corporation failing or neglecting to affix such label to any package containing mixed flour made or packed by him or them, or who removes from any such package any label so affixed, shall, upon conviction thereof, be fined not less than fifty dollars for each label so removed.

SEC. 40. That barrels or other packages in which mixed flour may be packed shall contain not to exceed one hundred and ninety-six pounds; that upon the manufacture and sale of mixed flour there shall be levied a tax of four cents per barrel or other package containing one hundred and ninety-six pounds or more than ninety-eight pounds; two cents on every half barrel or other package containing ninety-eight pounds or more than forty-nine pounds; one cent on every quarter barrel or other package containing forty-nine pounds or more than twenty-four and one-half pounds; and one-half cent on every one-eighth barrel or other package containing twenty-four and a half pounds or less, to be paid by the person, firm, or corporation making or packing said flour. The tax levied by this section shall be represented by coupon stamps, and the provisions of existing laws governing the engraving, issue, sale, accountability, effacement, and destruction of stamps relating to tobacco and snuff shall, so far as applicable, be made to apply to stamps provided in this section; *Provided*, That when mixed flour, on the manufacture and sale of which the tax herein imposed has been paid, is sold and then repacked without the addition of any other material, such repacked flour shall not be liable to any additional tax; but the packages containing such repacked flour shall be branded or marked as required by the provisions of section thirty-seven of this Act, and shall contain the card provided for in section thirty-seven hereof; and in addition thereto the person, firm, or corporation repacking mixed flour shall place on the packages containing the same a label in the following words: "Notice.—The contents of this package have been taken from a regular statutory package, upon which the tax has been duly paid." Any person violating the provisions of this section shall, upon conviction thereof, be punished by a fine of not less than two hundred and fifty dollars and not more than five hundred dollars, or by imprisonment not to exceed one year.

Tax on product.

Coupon stamps.

Laws applicable.

Repacked, not taxable.

Notice.

Penalty.

Cartons or other small unstamped packages in original packages, see articles 22-25, Regulations No. 25, revised July, 1918.

Supplement No. 1 to Regulations No. 25, concerning cancellation of tax-paid stamps; articles 18 and 19 amended to permit cancellation by perforation. (T. D. 2761.)

SEC. 41. That whenever any person, firm, or corporation sells, consigns, or removes for sale, consignment, or consumption any mixed flour upon which the tax required by this Act has not been paid, it shall be the duty of the Commissioner of Internal Revenue, for a period of not more than one year after such sale, consignment, or removal, upon satisfactory proof, to estimate the amount of tax which should have been paid, and to make an assessment therefor and certify the same to the collector of the proper district. The tax so assessed shall

Assessment of stamp tax.

be in addition to the penalties imposed by this Act for an unauthorized sale or removal.

Imported
mixed flour, tax
thereon, etc.

SEC. 42. That all mixed flours, imported from foreign countries, shall, in addition to any import duties imposed thereon, pay an internal revenue tax equal in amount to the tax imposed under section forty of this Act, such tax to be represented by coupon stamps, and the packages containing such imported mixed flour shall be marked, branded, labeled, and stamped as in the case of mixed flour made or packed in the United States. Any person, firm, or corporation purchasing or receiving for sale or repacking any such mixed flour which has not been branded, labeled, or stamped, as required by this Act, or which is contained in packages which have not been marked, branded, labeled, or stamped, as required by this Act, shall, upon conviction, be fined not less than fifty dollars nor more than five hundred dollars.

Penalty.

Penalty.

SEC. 43. That any person, firm, or corporation knowingly purchasing or receiving for sale or for repacking and resale any mixed flour from any maker, packer, or importer, who has not paid the tax herein provided, shall, for each offense, be fined not less than fifty dollars, and forfeit to the United States all the articles so purchased or received, or the full value thereof.

Removal for ex-
port.

SEC. 44. That mixed flour may be removed from the place of manufacture or from the place where packed for export to a foreign country without payment of tax or affixing stamps or label thereto, under such regulation and the filing of such bond and other security as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe. Every person, firm, or corporation who shall export mixed flour shall plainly mark on each package containing the same the words "mixed flour," and the names of the ingredients composing the same, the name of the maker or packer, and the place where made or packed, in accordance with the provisions of sections thirty-six to forty-five, inclusive, of this Act.

See Regulations No. 29, relative to all exportations under internal revenue laws.

Empty pack-
ages: stamps
destroyed.

Penalty.

SEC. 45. That whenever any package containing mixed flour is emptied it shall be the duty of the person in whose possession it is to destroy the stamp thereon. Any person disposing of such package without first having destroyed the stamp or mark or marks thereon shall, upon conviction, be punished by a fine not exceeding the sum of twenty-five dollars.

Penalties re-
coverable.

SEC. 46. That all fines, penalties, and forfeitures imposed by section thirty-six to section forty-five, both inclusive, of this Act may be recovered in any court of competent jurisdiction.

Regulations by
Commissioner.

SEC. 47. That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall

make all needful rules and regulations for carrying into effect the provisions relating to the manufacture and sale of mixed flour, being section thirty-five to section forty-nine, both inclusive, of this Act (and the said Commissioner of Internal Revenue, by and with the approval of the Secretary of the Treasury, for the purpose of carrying said last-mentioned provisions of this Act into effect, is hereby authorized to employ such additional clerks and agents as may be necessary for that purpose, not to exceed twenty in number.)

Regulations No. 25, revised July, 1918.

The provision in regard to employment of clerks and agents is obsolete.

SEC. 48. That any person, firm, or corporation found guilty of a second or any subsequent violation of any of the provisions of section thirty-six to section forty-five, both inclusive, relating to the manufacture and sale of mixed flour as aforesaid, of this Act shall, in addition to the penalties herein imposed, be imprisoned not less than thirty days nor more than ninety days. Penalty for subsequent violation.

SEC. 49. That the provisions of this Act relating to the manufacture and sale of mixed flour shall take effect and be in force sixty days from and after the date of the passage of this Act; and all packages of mixed flour found on the premises of any person, firm, or corporation on said day, who has made, packed, or repacked the same, on which the tax herein authorized has not been paid, shall be deemed taxable under the provisions of section thirty-six to section forty-five, both inclusive, of this Act, and shall be taxed and have affixed thereon such marks, brands, labels, and stamps as required by the provisions of said sections or by the rules and regulations prescribed by the Commissioner of Internal Revenue, under authority of this Act. Effective, date when.

CHAPTER FOURTEEN.

WHITE PHOSPHORUS MATCHES.¹

[Act of April 9, 1912 (37 Stat., 81); T. D. 1766.]

Sec.

1. Meaning of the words "white phosphorus."
2. Manufacturer shall register, file notices, inventories, and bonds; keep books; make returns; put up signs, and affix factory number.
3. How matches shall be packed; tax payable by stamps. Penalty for noncancellation.
4. Penalties for selling, removing without stamping, and canceling stamps; for evading the tax.
5. Penalty for affixing a stamp of less amount than the tax.
6. Penalty for removing or defacing stamp or using stamp unlawfully to evade tax.
7. Penalty for defrauding or attempting to defraud the Government; forfeiture of unstamped matches.
8. Stamps for payment of tax; account to be kept by collector. Provisions and penalties of existing laws relative to stamps made applicable.

Sec.

9. Assessment of tax on matches removed without stamps.
10. Importation of white phosphorus matches prohibited. Regulations to be prescribed by Secretary of the Treasury.
11. Exportation of white phosphorus matches prohibited; penalty for violation; confiscation and destruction of matches exported.
12. Marking, branding, stamping of packages; caution label; penalties for violation.
13. Penalty for omitting things required and for doing things forbidden.
14. Courts in which fines may be recovered.
15. Commissioner to make regulations.
16. Provisions and penalties of existing law made applicable.
17. Date act takes effect.

An act to provide for a tax upon white phosphorus matches, and for other purposes.

SEC. 1. [Act of April 9, 1912 (37 Stat., 81).] That for the purposes of this act the words "white phosphorus" shall be understood to mean the common poisonous white or yellow phosphorus used in the manufacture of matches and not to include the nonpoisonous forms or the nonpoisonous compounds of white or yellow phosphorus.

SEC. 2. That every manufacturer of white phosphorus matches shall register with the collector of internal revenue of the district his name or style, place of manufactory, and the place where such business is to be carried on; and a failure to register as herein provided and required shall subject such person to a penalty of not more than five hundred dollars. Every manufacturer of white phosphorus matches shall file with the collector of internal revenue of the district in which his manufactory is located such notices, inventories, and bonds, shall keep such books and render such returns in relation to the business, shall

Meaning of "white phosphorus."

Register, notices, inventories, bonds, books, returns, signs, and factory number.

Penalty.

¹ See Regulations No. 32.

put up such signs and affix such number to his factory, and conduct his business under such surveillance of officers and agents as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may, by regulation, require. The bond required of such manufacturer shall be with sureties satisfactory to the collector of internal revenue and in the penal sum of not less than one thousand dollars; and the sum of said bond may be increased from time to time and additional sureties required at the discretion of the collector or under instructions of the Commissioner of Internal Revenue.

Matches, how
packed; tax pay-
able by stamps.
Penalty.

SEC. 3. That all white phosphorus matches shall be packed by the manufacturer thereof in packages containing one hundred, two hundred, five hundred, one thousand, or one thousand five hundred matches each, which shall then be packed by the manufacturer in packages containing not less than fourteen thousand four hundred matches, and upon white phosphorus matches manufactured, sold, or removed there shall be levied and collected a tax at the rate of two cents per one hundred matches, which shall be represented by adhesive stamps, and this tax shall be paid by the manufacturer thereof, who shall affix to every package containing one hundred, two hundred, five hundred, one thousand, or one thousand five hundred matches such stamp of the required value and shall place thereon the initials of his name and the date on which such stamp is affixed, so that the same may not again be used. Every person who fraudulently makes use of an adhesive stamp to denote any tax imposed by this section without so effectually canceling such stamp shall forfeit the sum of fifty dollars for every stamp in respect to which such offense is committed.

Penalties for
selling, remov-
ing without
stamping and for
evading tax.

SEC. 4. That every manufacturer of matches who manufactures, sells, removes, distributes, or offers to sell or distribute, white phosphorus matches without there being affixed thereto an adhesive stamp, denoting the tax required by this act, effectually canceled as provided by the preceding section, shall for each offense be fined not more than one thousand dollars and be imprisoned not more than two years. Every manufacturer of matches who, to evade the tax chargeable thereon, or any part thereof, hides or conceals, or causes to be hidden or concealed, or removes or conveys away, or deposits or causes to be removed or conveyed away from or deposited in any place any white phosphorus matches, shall for each offense be fined not more than one thousand dollars and be imprisoned not more than two years, or both, and all such matches shall be forfeited.

Penalty for
affixing a stamp
of less amount
than the tax.

SEC. 5. That every person who affixes a stamp on any package of white phosphorus matches denoting a less amount of tax than that required by law shall for each offense be fined not more than one thousand dollars or be imprisoned not more than two years, or both.

SEC. 6. That every person who removes, defaces, or causes or permits or suffers the removal or defacement of any such stamp, or who uses any stamp or any package to which any stamp is affixed to cover any other white phosphorus matches than those originally contained in such package with such stamp when first used, to evade the tax imposed by this act, shall for every such package in respect to which any such offense is committed be fined fifty dollars, and all such matches shall also be forfeited.

Penalty for removing or defacing stamp or using stamp unlawfully.

SEC. 7. That every manufacturer of white phosphorus matches who defrauds or attempts to defraud the United States of the tax imposed by this act, or any part thereof, shall forfeit the factory and manufacturing apparatus used by him and all the white phosphorus matches and all raw material for the production of white phosphorus matches found in the factory and on the factory premises, or owned by him, and shall be fined not more than five thousand dollars or be imprisoned not more than three years, or both. All packages of white phosphorus matches subject to tax under this act that shall be found without stamps as herein provided shall be forfeited to the United States.

Penalty. Defrauding or attempting to defraud; forfeiture of unstamped matches.

SEC. 8. That the Commissioner of Internal Revenue shall cause to be prepared suitable and special stamps for payment of the tax on white phosphorus matches provided for by this act. Such stamps shall be furnished to collectors, who shall sell the same only to duly qualified manufacturers. Every collector shall keep an account of the number and denominate values of the stamps sold by him to each manufacturer. All the provisions and penalties of existing laws governing the engraving, issuing, sale, affixing, cancellation, accountability, effacement, destruction, and forgery of stamps provided for internal revenue are hereby made to apply to stamps provided for by this act.

Stamps; account to be kept by collector.

Provisions of existing laws relative to stamps made applicable.

SEC. 9. That whenever any manufacturer of white phosphorus matches sells or removes any white phosphorus matches without the use of the stamps required by this act, it shall be the duty of the Commissioner of Internal Revenue, within a period of not more than two years after such sale or removal, upon satisfactory proof, to estimate the amount of tax which has been omitted to be paid, and to make an assessment therefor and certify the same to the collector, who shall collect the same according to law. The tax so assessed shall be in addition to the penalties imposed by law for such sale or removal.

Assessment of tax on matches removed without stamps.

SEC. 10. That on and after January first, nineteen hundred and thirteen, white phosphorus matches, manufactured wholly or in part in any foreign country, shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited. All matches imported into the United States shall be accompanied by such certificate of official inspection by

Importation of white phosphorus matches prohibited.

Regulations.

the government of the country in which such matches were manufactured as shall satisfy the Secretary of the Treasury that they are not white phosphorus matches. The Secretary of the Treasury is authorized and directed to prescribe such regulations as may be necessary for the enforcement of the provisions of this section.

Exportation prohibited; penalty; confiscation and destruction of matches exported.

SEC. 11. That after January first, nineteen hundred and fourteen, it shall be unlawful to export from the United States any white phosphorus matches. Any person guilty of violation of this section shall be fined not less than one thousand dollars and not more than five thousand dollars, and any white phosphorus matches exported or attempted to be exported shall be confiscated to the United States and destroyed in such manner as may be prescribed by the Secretary of the Treasury, who shall have power to issue such regulations to customs officers as are necessary to the enforcement of this section.

Marking, branding, stamping of packages; caution label; penalties for violation.

SEC. 12. That every manufacturer of matches shall mark, brand, affix, stamp, or print, in such manner as the Commissioner of Internal Revenue shall prescribe, on every package of white phosphorus matches manufactured, sold, or removed by him, the factory number required under section two of this act. Every such manufacturer who omits to mark, brand, affix, stamp, or print such factory number on such package shall be fined not more than fifty dollars for each package in respect of which such offense is committed. Every manufacturer of white phosphorus matches shall securely affix by pasting on each original package containing stamped packages of white phosphorus matches manufactured by him, a label, on which shall be printed, besides the number of the manufactory and the district in which it is situated, these words: "Notice.—The manufacturer of the white phosphorus matches herein contained has complied with all the requirements of law. Every person is cautioned not to use again the stamps on the packages herein contained under the penalty provided by law in such cases." Every manufacturer of white phosphorus matches who neglects to affix such label to any original package containing stamped packages of white phosphorus matches made by him or sold or removed by or for him, and every person who removes any such label so affixed from any such original package, shall be fined not more than fifty dollars for each package in respect of which such offense is committed.

Omitting things required and for doing things forbidden. Penalty.

SEC. 13. That if any manufacturer of white phosphorus matches, or any importer or exporter of matches, shall omit, neglect, or refuse to do or cause to be done any of the things required by law in carrying on or conducting his business, or shall do anything by this act prohibited, if there be no specific penalty or punishment

imposed by any other section of this act for the neglecting, omitting, or refusing to do, or for the doing or causing to be done, the thing required or prohibited, he shall be fined one thousand dollars for each offense, and all the white phosphorus matches owned by him or in which he has any interest as owner shall be forfeited to the United States.

SEC. 14. That all fines, penalties, and forfeitures imposed by this act may be recovered in any court of competent jurisdiction.

Jurisdiction.

SEC. 15. That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may make all needful regulations for the carrying into effect of this act.

Regulations.

SEC. 16. That sections thirty-one hundred and sixty-four to thirty-one hundred and seventy-seven, thirty-one hundred and seventy-nine to thirty-two hundred and forty-three, thirty-three hundred and forty-six as amended, thirty-four hundred and twenty-nine as amended, thirty-four hundred and forty-five to thirty-four hundred and forty-eight, thirty-four hundred and fifty to thirty-four hundred and sixty-three, all inclusive, of the Revised Statutes of the United States, and all other provisions and penalties of existing law relating to internal revenue so far as applicable, are hereby made to extend to and include and apply to the taxes imposed by this act and to the articles upon which and to the persons upon whom they are imposed.

Provisions of existing law applicable.

SEC. 17. That this act shall take effect on July first, nineteen hundred and thirteen, except as previously provided in this act; and except as to its application to the sale or removal of white phosphorus matches by the manufacturers, as to which it shall take effect on January first, nineteen hundred and fifteen.

Date act takes effect.

Regulations No. 32.

CHAPTER FIFTEEN.

UNITED STATES COTTON FUTURES ACT.¹

[Act August 11, 1916 (39 Stat. 476).]

Sec.

1. Title of act.
2. Definitions; act of official deemed act of association or corporation.
3. Tax 2 cents per pound involved.
4. Contracts to be in writing.
5. Tax not to be levied on contracts complying with conditions prescribed; reference of disputes to Secretary of Agriculture.
6. Mode of determining differences to be paid in settlement of contract on delivery of cotton above or below basis grade.
- 6A. Tax not to be levied on contracts complying with conditions prescribed, "Section Six A Contracts."
7. Bona fide spot markets; designation.
8. Bona fide spot markets; mode of determining.
9. Cotton standards; establishment and promulgation; change or replacement; forms.
10. Tax not levied on contracts complying with conditions prescribed; no tax on sale of spot cotton.

Sec.

11. Tax to be paid by stamps.
12. Contracts not conforming to requirements of act not enforceable in courts of United States.
13. Regulations authorized; records and returns by clearing houses, etc.; agents, appointment and compensation.
14. Failure to pay tax or other violation of act or regulation; punishment.
15. Penalty; additional; United States attorneys to prosecute actions.
16. Testimony deemed material not to be withheld; exemption of witnesses from prosecution.
17. Payment of tax not to exempt from State laws, nor to prohibit tax by State or municipality.
18. Expenditure on previous appropriation.
19. Appropriation; publication of results of investigation; disposition of moneys collected.
20. Date of taking effect; contracts not affected by act.
21. Repeal; effect.
22. Effect of partial invalidity of act.

PART A.

That this Part, to be known as the United States cotton futures act, be, and hereby is, enacted to read and be effective hereafter as follows:

SEC. 1. That this act shall be known by the short title of the "United States cotton futures act."

SEC. 2. That, for the purposes of this act, the term "contract of sale" shall be held to include sales, agreements of sale, and agreements to sell. That the word "person," wherever used in this act, shall be construed to import the plural or singular, as the case demands, and shall include individuals, associations, partnerships, and corporations. When construing and enforcing the provisions of this act, the act, omission, or failure of any official, agent, or other person acting for or employed by

Title of act.

Definitions;
act of official
deemed act of
association or
corporation.

¹The cotton futures act of Aug. 18, 1914, was held to be unconstitutional in the case of *Hubbard v. Lowe*, 226 Fed. 135, but an appeal to the Supreme Court was afterwards dismissed. (See 242 U. S., 654.) The law was reenacted by the act of Aug. 11, 1916, an act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1917.

any association, partnership, or corporation within the scope of his employment or office, shall, in every case, also be deemed the act, omission, or failure of such association, partnership, or corporation as well as that of the person.

Tax 2 cents
per pound in-
volved.

SEC. 3. That upon each contract of sale of any cotton for future delivery made at, on, or in any exchange, board of trade, or similar institution or place of business, there is hereby levied a tax in the nature of an excise of 2 cents for each pound of cotton involved in any such contract.

Subdivision 5, Schedule A, Title XI, act of February 24, 1919, imposes a tax of 2 cents upon each \$100 in value of any product or merchandise sold on exchange for future delivery.

Sections 3 and 4 contemplate making of contracts in accordance with usual rules of exchanges, and contract is not invalid because made by broker in own name, on own credit, without disclosing name of principal. (*Hutton v. Terrill*, 255 Fed., 860.)

Contracts to
be in writing.

SEC. 4. That each contract of sale of cotton for future delivery mentioned in section three of this act shall be in writing plainly stating, or evidenced by written memorandum showing, the terms of such contract, including the quantity of the cotton involved and the names and addresses of the seller and buyer in such contract, and shall be signed by the party to be charged, or by his agent in his behalf. If the contract or memorandum specify in bales the quantity of the cotton involved, without giving the weight, each bale shall, for the purposes of this act, be deemed to weigh five hundred pounds.

Broker's seller's slip or buyer's slip, duly signed "by the party to be charged" in accordance with the rules of the exchange, is sufficient to prove a valid sale or purchase, and it is not essential that the contract be signed by both parties, or that both the seller's and buyer's slips shall be introduced in evidence. (*Thorn v. Brown*, 257 Fed., 519.)

Where contracts for purchase and sale of cotton futures are made between brokers on an exchange, where brokers only can make such contracts, this section does not require that the contracts should show the names of the principals for whom they act. (*Id.*)

Tax not to be
levied on con-
tracts complying
with conditions
prescribed.

SEC. 5. That no tax shall be levied under this act on any contract of sale mentioned in section three hereof if the contract comply with each of the following conditions:

First. Conform to the requirements of section four of, and the rules and regulations made pursuant to, this act.

Second. Specify the basis grade for the cotton involved in the contract, which shall be one of the grades for which standards are established by the Secretary of Agriculture, except grades prohibited from being delivered on a contract made under this section by the fifth subdivision of this section, the price per pound at which the cotton of such basis grade is contracted to be bought or sold, the date when the purchase or sale was made, and the month or months in which the contract is to be fulfilled or settled: *Provided*, That middling shall be

deemed the basis grade incorporated into the contract if no other basis grade be specified either in the contract or in the memorandum evidencing the same.

Third. Provide that the cotton dealt with therein or delivered thereunder shall be of or within the grades for which standards are established by the Secretary of Agriculture except grades prohibited from being delivered on a contract made under this section by the fifth subdivision of this section and no other grade or grades.

Fourth. Provide that in case cotton of grade other than the basis grade be tendered or delivered in settlement of such contract, the differences above or below the contract price which the receiver shall pay for such grades other than the basis grade shall be the actual commercial differences, determined as hereinafter provided.

Fifth. Provide that cotton that, because of the presence of extraneous matter of any character or irregularities or defects, is reduced in value below that of Good Ordinary, or cotton that is below the grade of Good Ordinary, or, if tinged, cotton that is below the grade of Low Middling, or, if stained, cotton that is below the grade of Middling, the grades mentioned being of the official cotton standards of the United States, or cotton that is less than seven-eighths of an inch in length of staple, or cotton of perished staple or of immature staple, or cotton that is "gin cut" or reginned, or cotton that is "repacked" or "false packed" or "mixed packed" or "water packed," shall not be delivered on, under, or in settlement of such contract.

Sixth. Provide that all tenders of cotton under such contract shall be the full number of bales involved therein, except that such variations of the number of bales may be permitted as is necessary to bring the total weight of the cotton tendered within the provisions of the contract as to weight; that, on the fifth business day prior to delivery, the person making the tender shall give to the person receiving the same written notice of the date of delivery, and that, on or prior to the date so fixed for delivery, and in advance of final settlement of the contract, the person making the tender shall furnish to the person receiving the same a written notice or certificate stating the grade of each individual bale to be delivered and, by means of marks or numbers, identifying each bale with its grade.

Seventh. Provide that, in case a dispute arises between the person making the tender and the person receiving the same, as to the classification of any cotton tendered under the contract, either party may refer the question of the true classification of said cotton to the Secretary of Agriculture for determination, and that such dispute shall be referred and determined, and the costs thereof fixed, assessed, collected, and paid in such manner and in accordance with such rules and regula-

Reference of
disputes to Sec-
retary of Agri-
culture.

tions as may be prescribed by the Secretary of Agriculture.

The provisions of the third, fourth, fifth, sixth, and seventh subdivisions of this section shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the memorandum evidencing the same, at or prior to the time the same is signed, the phrase "subject to United States cotton futures act, section five."

The Secretary of Agriculture is authorized to prescribe rules and regulations for carrying out the purposes of the seventh subdivision of this section, and his findings, upon any dispute referred to him under said seventh subdivision, made after the parties in interest have had an opportunity to be heard by him or such officer, officers, agent, or agents, of the Department of Agriculture as he may designate, shall be accepted in the courts of the United States in all suits between such parties, or their privies, as *prima facie* evidence of the true classification of the cotton involved.

Disputes arising upon delivery of cotton made upon contract under this section must be settled by the courts.
(T. D. 2177.)

Mode of determining differences to be paid in settlement of contract on delivery of cotton above or below basis grade.

Sec. 6. That for the purposes of section five of this act the differences above or below the contract price which the receiver shall pay for cotton of grades above or below the basis grade in the settlement of a contract of sale for the future delivery of cotton shall be determined by the actual commercial differences in value thereof upon the sixth business day prior to the day fixed, in accordance with the sixth subdivision of section five, for the delivery of cotton on the contract, established by the sale of spot cotton in the market where the future transaction involved occurs and is consummated if such market be a bona fide spot market; and in the event there be no bona fide spot market at or in the place in which such future transaction occurs, then, and in that case, the said differences above or below the contract price which the receiver shall pay for cotton above or below the basis grade shall be determined by the average actual commercial differences in value thereof, upon the sixth business day prior to the day fixed, in accordance with the sixth subdivision of section five, for the delivery of cotton on the contract, in the spot markets of not less than five places designated for the purpose from time to time by the Secretary of Agriculture, as such values were established by the sales of spot cotton, in such designated five or more markets: *Provided*, That for the purposes of this section such values in the said spot markets be based upon the standards for grades of cotton established by the Secretary of Agriculture: *And provided further*, That whenever the value of one grade is to be determined from the sale or sales of spot cotton of another grade or grades, such

value shall be fixed in accordance with rules and regulations which shall be prescribed for the purpose by the Secretary of Agriculture.

SEC. 6A. That no tax shall be levied under this act on any contract of sale mentioned in section three hereof if the contract provide that, in case cotton of grade or grades other than the basis grade specified in the contract shall be tendered in performance of the contract, the parties to such contract may agree, at the time of the tender, as to the price of the grade or grades so tendered, and that if they shall not then agree as to such price, then, and in that event, the buyer of said contract shall have the right to demand the specific fulfillment of such contract by the actual delivery of cotton of the basis grade named therein, and at the price specified for such basis grade in said contract, and if the contract also comply with all the terms and conditions of section five hereof not inconsistent with this section: *Provided*, That nothing in this section shall be so construed as to relieve from the tax levied by section three of this act any contract in which or in the settlement of or in respect to which, any device or arrangement whatever is resorted to, or any agreement is made, for the determination or adjustment of the price of the grade or grades tendered other than the basis grade specified in the contract by any "fixed difference" system, or by arbitration, or by any other method not provided for by this act.

Tax not to be levied on contracts complying with conditions prescribed, "Section six A Contracts."

Contracts made in compliance with this section shall be known as "Section six A Contracts." The provisions of this section shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the memorandum evidencing the same, at or prior to the time the same is signed, the phrase "Subject to United States cotton futures act, section six A."

Section ten of this act shall not be construed to apply to any contract of sale made in compliance with section six A hereof.

SEC. 7. That for the purposes of this act the only markets which shall be considered bona fide spot markets shall be those which the Secretary of Agriculture shall, from time to time, after investigation, determine and designate to be such, and of which he shall give public notice.

Bona fide spot markets; designation.

SEC. 8. That in determining, pursuant to the provisions of this act, what markets are bona fide spot markets, the Secretary of Agriculture is directed to consider only markets in which spot cotton is sold in such volume and under such conditions as customarily to reflect accurately the value of middling cotton and the differences between the prices or values of middling cotton and of other grades of cotton for which standards shall have been established by the Secretary of Agriculture: *Provided*,

Bona fide spot markets; mode of determining.

That if there be not sufficient places, in the markets of which are made bona fide sales of spot cotton of grades for which standards are established by the Secretary of Agriculture, to enable him to designate at least five spot markets in accordance with section six of this act, he shall, from data as to spot sales collected by him, make rules and regulations for determining the actual commercial differences in the value of spot cotton of the grades established by him as reflected by bona fide sales of spot cotton, of the same or different grades, in the markets selected and designated by him, from time to time, for that purpose, and in that event, differences in value of cotton of various grades involved in contracts made pursuant to section five of this act shall be determined in compliance with such rules and regulations.

Cotton standard; establishment and promulgation; official cotton standards of the United States.

SEC. 9. That the Secretary of Agriculture is authorized, from time to time, to establish and promulgate standards of cotton by which its quality or value may be judged or determined, including its grade, length of staple, strength of staple, color, and such other qualities, properties, and conditions as may be standardized in practical form, which, for the purposes of this act, shall be known as the "Official cotton standards of the United States," and to adopt, change, or replace the standard for any grade of cotton established under the act making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and nine (Thirty-fifth Statutes at Large, page two hundred and fifty-one), and acts supplementary thereto: *Provided*, That any standard of any cotton established and promulgated under this act by the Secretary of Agriculture shall not be changed or replaced within a period less than one year from and after the date of the promulgation thereof by the Secretary of Agriculture: *Provided further*, That, subsequent to six months after the date section three of this act becomes effective, no change or replacement of any standard of any cotton established and promulgated under this act by the Secretary of Agriculture shall become effective until after one year's public notice thereof, which notice shall specify the date when the same is to become effective. The Secretary of Agriculture is authorized and directed to prepare practical forms of the official cotton standards which shall be established by him, and to furnish such practical forms from time to time, upon request, to any person, the cost thereof, as determined by the Secretary of Agriculture, to be paid by the person requesting the same, and to certify such practical forms under the seal of the Department of Agriculture and under the signature of the said Secretary, there-to affixed by himself or by some official or employee of the Department of Agriculture thereunto duly authorized by the said Secretary.

Change or replacement.

Forms.

SEC. 10. That no tax shall be levied under this act on any contract of sale mentioned in section three hereof if the contract comply with each of the following conditions: Tax not to be levied on contracts complying with conditions prescribed.

First. Conform to the rules and regulations made pursuant to this act.

Second. Specify the grade, type, sample, or description of the cotton involved in the contract, the price per pound at which such cotton is contracted to be bought or sold, the date of the purchase or sale, and the time when shipment or delivery of such cotton is to be made.

Third. Provide that cotton of or within the grade or of the type, or according to the sample or description specified in the contract shall be delivered thereunder, and that no cotton which does not conform to the type, sample, or description, or which is not of or within the grade specified in the contract shall be tendered or delivered thereunder.

Fourth. Provide that the delivery of cotton under the contract shall not be effected by means of "set-off" or "ring" settlement, but only by the actual transfer of the specified cotton mentioned in the contract.

The provisions of the first, third, and fourth subdivisions of this section shall be deemed fully incorporated into any such contract if there be written or printed thereon, or on the document or memorandum evidencing the same, at or prior to the time the same is entered into, the words "subject to United States cotton futures act, section ten."

This act shall not be construed to impose a tax on any sale of spot cotton. No tax on sale of spot cotton.

This section shall not be construed to apply to any contract of sale made in compliance with section five of this act.

SEC. 11. That the tax imposed by section three of this act shall be paid by the seller of the cotton involved in the contract of sale, by means of stamps, which shall be affixed to such contracts or to the memoranda evidencing the same, and canceled in compliance with rules and regulations which shall be prescribed by the Secretary of the Treasury. Tax to be paid by stamps.

SEC. 12. That no contract of sale of cotton for future delivery mentioned in section three of this act which does not conform to the requirements of section four hereof and has not the necessary stamps affixed thereto, as required by section eleven hereof, shall be enforceable in any court of the United States by or on behalf of any party to such contract or his privies. Contracts not conforming to requirements of act not enforceable in courts of United States.

SEC. 13. That the Secretary of the Treasury is authorized to make and promulgate such rules and regulations as he may deem necessary to collect the tax imposed by this act and otherwise to enforce its provisions. Further Regulations authorized; records and returns by clearing houses, etc.

to effect this purpose, he shall require all persons coming within its provisions to keep such records and statements of account, and may require such persons to make such returns, verified under oath or otherwise, as will fully and correctly disclose all transactions mentioned in section three of this act, including the making, execution, settlement, and fulfillment thereof; he may require all persons who act in the capacity of a clearing house, clearing association, or similar institution for the purpose of clearing, settling, or adjusting transactions mentioned in section three of this act to keep such records and to make such returns as will fully and correctly disclose all facts in their possession relating to such transactions; and he may appoint agents to conduct the inspection necessary to collect said tax and otherwise to enforce this act and all rules and regulations made by him in pursuance hereof, and may fix the compensation of such agents. The provisions of the internal-revenue laws of the United States, so far as applicable, including sections thirty-one hundred and seventy-three, thirty-one hundred and seventy-four, and thirty-one hundred and seventy-five of the Revised Statutes, as amended, are hereby extended and made to apply to this act.

Agents, appointment and compensation.

Revenue laws made applicable.

Regulations No. 36, August 29, 1916 (T. D. 2358); No. 40, November 30, 1917 (T. D. 2608).

Failure to pay tax or other violation of act or regulations; punishment.

SEC. 14. That any person liable to the payment of any tax imposed by this act who fails to pay or evades or attempts to evade the payment of such tax, and any person who otherwise violates any provision of this act, or any rule or regulation made in pursuance hereof, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than \$100 nor more than \$20,000, in the discretion of the court; and, in case of natural persons, may, in addition, be punished by imprisonment for not less than sixty days nor more than three years, in the discretion of the court.

Penalty, additional.

United States attorneys to prosecute actions.

SEC. 15. That in addition to the foregoing punishment there is hereby imposed, on account of each violation of this act, a penalty of \$2,000, to be recovered in an action founded on this act in the name of the United States as plaintiff, and when so recovered one-half of said amount shall be paid over to the person giving the information upon which such recovery was based. It shall be the duty of the United States attorneys, to whom satisfactory evidence of violations of this act is furnished, to institute and prosecute actions for the recovery of the penalties prescribed by this section.

Testimony deemed material not to be withheld.

SEC. 16. That no person whose evidence is deemed material by the officer prosecuting on behalf of the United States in any case brought under any provision of this act shall withhold his testimony because of complicity by him in any violation of this act or of any regulation made pursuant to this act, but any such person called by such

officer who testifies in such case shall be exempt from prosecution for any offense to which his testimony relates. Exemption of witness from prosecution.

SEC. 17. That the payment of any tax levied by this act shall not exempt any person from any penalty or punishment now or hereafter provided by the laws of any State for entering into contracts of sale of cotton for future delivery, nor shall the payment of any tax imposed by this act be held to prohibit any State or municipality from imposing a tax on the same transaction. Payment of tax not to exempt from State laws, nor to prohibit tax by State or municipality.

SEC. 18. That there is hereby appropriated, out of any moneys in the Treasury not otherwise appropriated, for the fiscal year ending June thirtieth, nineteen hundred and sixteen, the unexpended balance of the sum appropriated by the act of March fourth, nineteen hundred and fifteen (Thirty-eighth Statutes at Large, page one thousand and seventeen), for collecting "the cotton futures tax," or so much thereof as may be necessary, to enable the Secretary of the Treasury to carry out the provisions of this act and any duties remaining to be performed by him under the United States cotton futures act of August eighteenth, nineteen hundred and fourteen (Thirty-eighth Statutes at Large, page six hundred and ninety-three). Expenditure on previous appropriation.

SEC. 19. That there are hereby appropriated out of any moneys in the Treasury not otherwise appropriated, available until expended, the unexpended balance of the sum of \$150,000 appropriated by section twenty of the said act of August eighteenth, nineteen hundred and fourteen, and for the fiscal year ending June thirtieth, nineteen hundred and sixteen, the unexpended balance of the sum of \$75,000 appropriated for the "Enforcement of the United States cotton futures act," by the act making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and sixteen (Thirty-eighth Statutes at Large, page one thousand and eighty-six), or so much of each of said unexpended balances as may be necessary, to be used by the Secretary of Agriculture for the same purposes, in carrying out the provisions of this act, as those for which said sums, respectively, were originally appropriated, and to enable the Secretary of Agriculture to carry out any duties remaining to be performed by him under the said act of August eighteenth, nineteen hundred and fourteen. The Secretary of Agriculture is hereby directed to publish from time to time the results of investigations made in pursuance of this act. All sums collected by the Secretary of Agriculture as costs under section five, or for furnishing practical forms under section nine, of this act, shall be deposited and covered into the Treasury as miscellaneous receipts. Appropriation.

SEC. 20. That sections nine, eighteen, and nineteen of this act and all provisions of this act authorizing rules Publication of results of investigation; disposition of moneys collected.

Date of taking
effect; contracts
not affected by
act.

and regulations to be prescribed shall be effective immediately. All other sections of this act shall become and be effective on and after the first day of the calendar month next succeeding the date of the passage of this act: *Provided*, That nothing in this act shall be construed to apply to any contract of sale of any cotton for future delivery mentioned in section three of this act which shall have been made prior to the first day of the calendar month next succeeding the date of the passage of this act.

Repeal; effect.

SEC. 21. That the act entitled "An act to tax the privilege of dealing on exchanges, boards of trade, and similar places in contracts of sale of cotton for future delivery, and for other purposes," approved August eighteenth, nineteen hundred and fourteen (Thirty-eighth Statutes at Large, page six hundred and ninety-three), is hereby repealed, effective on and after the first day of the calendar month next succeeding the date of the passage of this act: *Provided*, That nothing in this act shall be construed to affect any right or privilege accrued, any penalty or liability incurred, or any proceeding commenced under said act of August eighteenth, nineteen hundred and fourteen, or to diminish any authority conferred by said act on any official of the United States necessary to enable him to carry out any duties remaining to be performed by him under the said act, or to impair the effect of the findings of the Secretary of Agriculture upon any dispute referred to him under said act, or to affect any right in respect to or arising out of any contract mentioned in section three of said act, made on or subsequent to February eighteenth, nineteen hundred and fifteen, and prior to the first day of the calendar month next succeeding the date of the passage of this act, but so far as concerns any such contract said act of August eighteenth, nineteen hundred and fourteen, shall remain in force with the same effect as if this act had not been passed.

Effect of partial
invalidity of
act.

SEC. 22. That if any clause, sentence, paragraph, or part of this act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

CHAPTER SIXTEEN.

INCOME TAXES.^{1, 2}

[Title II, Act of February 24, 1919 (40 Stat. 1057).]

PART I.—GENERAL PROVISIONS.

Sec.	Sec.
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202. Basis for determining gain or loss.	206. Parts of income subject to rates for different years.
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PART II.—INDIVIDUALS.

Sec.	Sec.
210. Normal tax; rate.	221. Payment of tax at source.
211. Surtax.	222. Credit for taxes.
212. Net income defined; computation.	223. Individual returns.
213. Gross income.	224. Partnership returns.
214. Deductions.	225. Fiduciary returns.
215. Items not deductible.	226. Returns when accounting period changed.
216. Credits allowed.	227. Time and place for filing returns.
217. Nonresident allens.	228. Understatement in returns.
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PART III.—CORPORATIONS.

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232. Net income defined.	238. Credit for taxes.
233. Gross income.	239. Returns.
234. Deductions allowed.	240. Consolidated returns.
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250. Payment of taxes in installments; penalties.	256. Information at source.
251. Receipts for taxes.	257. Returns as public records.
252. Refunds.	258. Publication of statistics.
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254. Returns of payments of dividends.	260. Citizens of United States possessions.
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TITLE II.—INCOME TAX.

PART I.—GENERAL PROVISIONS.

SEC. 200. [Act of February 24, 1919 (40 Stat., 1057).] Definitions.
That when used in this title—

The term "taxable year" means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net income is computed under section 212 or section 232. The term "fiscal year" means an accounting period of twelve months ending on the last

¹ See Regulations No. 45.
² Act of October 3, 1913, post, p. 729; act of September 8, 1916, post, p. 793; act of October 3, 1917, post, p. 849.

day of any month other than December. The first taxable year, to be called the taxable year 1918, shall be the calendar year 1918 or any fiscal year ending during the calendar year 1918;

"Fiduciary." The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person, trust or estate;

"Withholding agent." The term "withholding agent" means any person required to deduct and withhold any tax under the provisions of section 221 or section 237;

"Personal service corporation." The term "personal service corporation" means a corporation whose income is to be ascribed primarily to the activities of the principal owners or stockholders who are themselves regularly engaged in the active conduct of the affairs of the corporation and in which capital (whether invested or borrowed) is not a material income-producing factor; but does not include any foreign corporation, nor any corporation 50 per centum or more of whose gross income consists either (1) of gains, profits or income derived from trading as a principal, or (2) of gains, profits, commissions, or other income, derived from a Government contract, or contracts made between April 6, 1917, and November 11, 1918, both dates inclusive;

"Paid." The term "paid," for the purposes of the deductions and credits under this title, means "paid or accrued" or "paid or incurred," and the terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the net income is computed under section 212.

"Paid or incurred."
"Paid or accrued."

Dividends. SEC. 201. (a) That the term "dividend" when used in this title (except in paragraph (10) of subdivision (a) of section 234) means (1) any distribution made by a corporation, other than a personal service corporation, to its shareholders or members, whether in cash or in other property or in stock of the corporation, out of its earnings or profits accumulated since February 28, 1913, or (2) any such distribution made by a personal service corporation out of its earnings or profits accumulated since February 28, 1913, and prior to January 1, 1918.

Distribution from earnings or profits. (b) Any distribution shall be deemed to have been made from earnings or profits unless all earnings and profits have first been distributed. Any distribution made in the year 1918 or any year thereafter shall be deemed to have been made from earnings or profits accumulated since February 28, 1913, or, in the case of a personal service corporation, from the most recently accumulated earnings or profits; but any earnings or profits accumulated prior to March 1, 1913, may be distributed in stock dividends or otherwise, exempt from the tax, after the earnings and profits accumulated since February 28, 1913, have been distributed.

(c) A dividend paid in stock of the corporation shall be considered income to the amount of the earnings or profits distributed. Amounts distributed in the liquidation of a corporation shall be treated as payments in exchange for stock or shares, and any gain or profit realized thereby shall be taxed to the distributee as other gains or profits. Stock dividends.

(d) If any stock dividend (1) is received by a taxpayer between January 1 and November 1, 1918, both dates inclusive, or (2) is during such period bona fide authorized or declared, and entered on the books of the corporation, and is received by a taxpayer after November 1, 1918, and before the expiration of thirty days after the passage of this Act, then such dividend shall, in the manner provided in section 206, be taxed to the recipient at the rates prescribed by law for the years in which the corporation accumulated the earnings or profits from which such dividend was paid, but the dividend shall be deemed to have been paid from the most recently accumulated earnings or profits. Dividends of 1918; rate of tax.
Earnings or profits from which paid.

(e) Any distribution made during the first sixty days of any taxable year shall be deemed to have been made from earnings or profits accumulated during preceding taxable years; but any distribution made during the remainder of the taxable year shall be deemed to have been made from earnings or profits accumulated between the close of the preceding taxable year and the date of distribution, to the extent of such earnings or profits, and if the books of the corporation do not show the amount of such earnings or profits, the earnings or profits for the accounting period within which the distribution was made shall be deemed to have been accumulated ratably during such period. Division of earnings of taxable years.

SEC. 202. (a) That for the purpose of ascertaining the gain derived or loss sustained from the sale or other disposition of property, real, personal, or mixed, the basis shall be— Basis for determining gain or loss.

(1) In the case of property acquired before March 1, 1913, the fair market price or value of such property as of that date; and Property acquired before March 1, 1913.

(2) In the case of property acquired on or after that date, the cost thereof; or the inventory value, if the inventory is made in accordance with section 203. Property acquired after March 1, 1913.

(b) When property is exchanged for other property, the property received in exchange shall for the purpose of determining gain or loss be treated as the equivalent of cash to the amount of its fair market value, if any; but when in connection with the reorganization, merger, or consolidation of a corporation a person receives in place of stock or securities owned by him new stock or securities of no greater aggregate par or face value, no gain or loss shall be deemed to occur from the exchange, and the Exchange of property.

Reorganiza-
tion, merger or
consolidation of
corporation.

new stock or securities received shall be treated as taking the place of the stock, securities, or property exchanged.

When in the case of any such reorganization, merger or consolidation the aggregate par or face value of the new stock or securities received is in excess of the aggregate par or face value of the stock or securities exchanged, a like amount in par or face value of the new stock or securities received shall be treated as taking the place of the stock or securities exchanged, and the amount of the excess in par or face value shall be treated as a gain to the extent that the fair market value of the new stock or securities is greater than the cost (or if acquired prior to March 1, 1913, the fair market value as of that date) of the stock or securities exchanged.

Article 1563, Regulations No. 45, relating to exchange of property, amended. (T. D. 2971.)

Exchange of stock for stock of no greater par value; amendment of article 1567, Regulations No. 45. (T. D. 2870.)

Articles 1566 and 1567, Regulations No. 45, relating to exchange of property and stock and to exchange of stock for other stock of no greater par value, modified. (T. D. 2924.)

Article 1568, Regulations No. 45, relating to determination of gain or loss from subsequent sale, amended. (T. D. 2963.)

Inventories.

SEC. 203. That whenever in the opinion of the Commissioner the use of inventories is necessary in order clearly to determine the income of any taxpayer, inventories shall be taken by such taxpayer upon such basis as the Commissioner, with the approval of the Secretary, may prescribe as conforming as nearly as may be to the best accounting practice in the trade or business and as most clearly reflecting the income.

Net losses—
Definition.

SEC. 204. (a) That as used in this section the term "net loss" refers only to net losses resulting from either (1) the operation of any business regularly carried on by the taxpayer, or (2) the bona fide sale by the taxpayer of plant, buildings, machinery, equipment or other facilities, constructed, installed or acquired by the taxpayer on or after April 6, 1917, for the production of articles contributing to the prosecution of the present war; and when so resulting means the excess of the deductions allowed by law (excluding in the case of corporations amounts allowed as a deduction under paragraph (6) of subdivision (a) of section 234) over the sum of the gross income plus any interest received free from taxation both under this title and under Title III.

Evidence as to
net loss; rede-
termination of
tax.

(b) If for any taxable year beginning after October 31, 1918, and ending prior to January 1, 1920, it appears upon the production of evidence satisfactory to the Commissioner that any taxpayer has sustained a net loss, the amount of such net loss shall under regulations prescribed by the Commissioner with the approval of the Secretary be deducted from the net income of the taxpayer for the preceding taxable year; and the taxes imposed by this title and by Title III for such preceding

taxable year shall be redetermined accordingly. Any amount found to be due to the taxpayer upon the basis of such redetermination shall be credited or refunded to the taxpayer in accordance with the provisions of section 252. If such net loss is in excess of the net income for such preceding taxable year, the amount of such excess shall under regulations prescribed by the Commissioner with the approval of the Secretary be allowed as a deduction in computing the net income for the succeeding taxable year.

Credit or refund.

Deduction for succeeding taxable year.

(c) The benefit of this section shall be allowed to the members of a partnership and the beneficiaries of an estate or trust under regulations prescribed by the Commissioner with the approval of the Secretary.

Partners, and beneficiaries of estate or trust.

SEC. 205. (a) That if a taxpayer makes return for a fiscal year beginning in 1917 and ending in 1918, his tax under this title for the first taxable year shall be the sum of: (1) the same proportion of a tax for the entire period computed under Title I of the Revenue Act of 1916 as amended by the Revenue Act of 1917 and under Title I of the Revenue Act of 1917, which the portion of such period falling within the calendar year 1917 is of the entire period, and (2) the same proportion of a tax for the entire period computed under this title at the rates for the calendar year 1918 which the portion of such period falling within the calendar year 1918 is of the entire period: *Provided*, That in the case of a personal service corporation the amount to be paid shall be only that specified in clause (1).

Fiscal year with different rates.
Year ending in 1918.

Any amount heretofore or hereafter paid on account of the tax imposed for such fiscal year by Title I of the Revenue Act of 1916 as amended by the Revenue Act of 1917, and by Title I of the Revenue Act of 1917, shall be credited towards the payment of the tax imposed for such fiscal year by this act, and if the amount so paid exceeds the amount of such tax imposed by this act, or, in the case of a personal service corporation, the amount specified in clause (1), the excess shall be credited or refunded in accordance with the provisions of section 252.

(b) If a taxpayer makes a return for a fiscal year beginning in 1918 and ending in 1919, the tax under this title for such fiscal year shall be the sum of: (1) the same proportion of a tax for the entire period computed under this title at the rates specified for the calendar year 1918 which the portion of such period falling within the calendar year 1918 is of the entire period, and (2) the same proportion of a tax for the entire period computed under this title at the rates specified for the calendar year 1919 which the portion of such period falling within the calendar year 1919 is of the entire period.

Year ending in 1919.

(c) If a fiscal year of a partnership begins in 1917 and ends in 1918 or begins in 1918 and ends in 1919, then notwithstanding the provisions of subdivision (b) of section 218, (1) the rates for the calendar year during which

Partnerships.

such fiscal year begins shall apply to an amount of each partner's share of such partnership net income (determined under the law applicable to such year) equal to the proportion which the part of such fiscal year falling within such calendar year bears to the full fiscal year, and (2) the rates for the calendar year during which such fiscal year ends shall apply to an amount of each partner's share of such partnership net income (determined under the law applicable to such calendar year) equal to the proportion which the part of such fiscal year falling within such calendar year bears to the full fiscal year: *Provided*, That in the case of a personal service corporation with respect to a fiscal year beginning in 1917 and ending in 1918, the amount specified in clause (1) shall not be subject to normal tax.

Parts of income subject to rates for different years.

SEC. 206. That whenever parts of a taxpayer's income are subject to rates for different calendar years, the part subject to the rates for the most recent calendar year shall be placed in the lower brackets of the rate schedule provided in this title, the part subject to the rates for the next preceding calendar year shall be placed in the next higher brackets of the rate schedule applicable to that year, and so on until the entire net income has been accounted for. In determining the income, any deductions, exemptions or credits of a kind not plainly and properly chargeable against the income taxable at rates for a preceding year shall first be applied against the income subject to rates for the most recent calendar year; but any balance thereof shall be applied against the income subject to the rates of the next preceding year or years until fully allowed.

PART II.—INDIVIDUALS.

Normal tax.

SEC. 210. That, in lieu of the taxes imposed by subdivision (a) of section 1 of the Revenue Act of 1916 and by section 1 of the Revenue Act of 1917, there shall be levied, collected, and paid for each taxable year upon the net income of every individual a normal tax at the following rates:

Rate for 1918.

(a) For the calendar year 1918, 12 per centum of the amount of the net income in excess of the credits provided in section 216: *Provided*, That in the case of a citizen or resident of the United States the rate upon the first \$4,000 of such excess amount shall be 6 per centum;

Rate for 1919 and thereafter.

(b) For each calendar year thereafter, 8 per centum of the amount of the net income in excess of the credits provided in section 216: *Provided*, That in the case of a citizen or resident of the United States the rate upon the first \$4,000 of such excess amount shall be 4 per centum.

Surtax.

SEC. 211. (a) That, in lieu of the taxes imposed by subdivision (b) of section 1 of the Revenue Act of 1916 and by section 2 of the Revenue Act of 1917, but in ad-

dition to the normal tax imposed by section 210 of this Act, there shall be levied, collected, and paid for each taxable year upon the net income of every individual, a surtax equal to the sum of the following:

1 per centum of the amount by which the net income exceeds \$5,000 and does not exceed \$6,000;

2 per centum of the amount by which the net income exceeds \$6,000 and does not exceed \$8,000;

3 per centum of the amount by which the net income exceeds \$8,000 and does not exceed \$10,000;

4 per centum of the amount by which the net income exceeds \$10,000 and does not exceed \$12,000;

5 per centum of the amount by which the net income exceeds \$12,000 and does not exceed \$14,000;

6 per centum of the amount by which the net income exceeds \$14,000 and does not exceed \$16,000;

7 per centum of the amount by which the net income exceeds \$16,000 and does not exceed \$18,000;

8 per centum of the amount by which the net income exceeds \$18,000 and does not exceed \$20,000;

9 per centum of the amount by which the net income exceeds \$20,000 and does not exceed \$22,000;

10 per centum of the amount by which the net income exceeds \$22,000 and does not exceed \$24,000;

11 per centum of the amount by which the net income exceeds \$24,000 and does not exceed \$26,000;

12 per centum of the amount by which the net income exceeds \$26,000 and does not exceed \$28,000;

13 per centum of the amount by which the net income exceeds \$28,000 and does not exceed \$30,000;

14 per centum of the amount by which the net income exceeds \$30,000 and does not exceed \$32,000;

15 per centum of the amount by which the net income exceeds \$32,000 and does not exceed \$34,000;

16 per centum of the amount by which the net income exceeds \$34,000 and does not exceed \$36,000;

17 per centum of the amount by which the net income exceeds \$36,000 and does not exceed \$38,000;

18 per centum of the amount by which the net income exceeds \$38,000 and does not exceed \$40,000;

19 per centum of the amount by which the net income exceeds \$40,000 and does not exceed \$42,000;

20 per centum of the amount by which the net income exceeds \$42,000 and does not exceed \$44,000;

21 per centum of the amount by which the net income exceeds \$44,000 and does not exceed \$46,000;

22 per centum of the amount by which the net income exceeds \$46,000 and does not exceed \$48,000;

23 per centum of the amount by which the net income exceeds \$48,000 and does not exceed \$50,000;

24 per centum of the amount by which the net income exceeds \$50,000 and does not exceed \$52,000;

25 per centum of the amount by which the net income exceeds \$52,000 and does not exceed \$54,000;

26 per centum of the amount by which the net income exceeds \$54,000 and does not exceed \$56,000;

27 per centum of the amount by which the net income exceeds \$56,000 and does not exceed \$58,000;

28 per centum of the amount by which the net income exceeds \$58,000 and does not exceed \$60,000;

29 per centum of the amount by which the net income exceeds \$60,000 and does not exceed \$62,000;

30 per centum of the amount by which the net income exceeds \$62,000 and does not exceed \$64,000;

31 per centum of the amount by which the net income exceeds \$64,000 and does not exceed \$66,000;

32 per centum of the amount by which the net income exceeds \$66,000 and does not exceed \$68,000;

33 per centum of the amount by which the net income exceeds \$68,000 and does not exceed \$70,000;

34 per centum of the amount by which the net income exceeds \$70,000 and does not exceed \$72,000;

35 per centum of the amount by which the net income exceeds \$72,000 and does not exceed \$74,000;

36 per centum of the amount by which the net income exceeds \$74,000 and does not exceed \$76,000;

37 per centum of the amount by which the net income exceeds \$76,000 and does not exceed \$78,000;

38 per centum of the amount by which the net income exceeds \$78,000 and does not exceed \$80,000;

39 per centum of the amount by which the net income exceeds \$80,000 and does not exceed \$82,000;

40 per centum of the amount by which the net income exceeds \$82,000 and does not exceed \$84,000;

41 per centum of the amount by which the net income exceeds \$84,000 and does not exceed \$86,000;

42 per centum of the amount by which the net income exceeds \$86,000 and does not exceed \$88,000;

43 per centum of the amount by which the net income exceeds \$88,000 and does not exceed \$90,000;

44 per centum of the amount by which the net income exceeds \$90,000 and does not exceed \$92,000;

45 per centum of the amount by which the net income exceeds \$92,000 and does not exceed \$94,000;

46 per centum of the amount by which the net income exceeds \$94,000 and does not exceed \$96,000;

47 per centum of the amount by which the net income exceeds \$96,000 and does not exceed \$98,000;

48 per centum of the amount by which the net income exceeds \$98,000 and does not exceed \$100,000;

52 per centum of the amount by which the net income exceeds \$100,000 and does not exceed \$150,000;

56 per centum of the amount by which the net income exceeds \$150,000 and does not exceed \$200,000;

60 per centum of the amount by which the net income exceeds \$200,000 and does not exceed \$300,000;

63 per centum of the amount by which the net income exceeds \$300,000 and does not exceed \$500,000;

64 per centum of the amount by which the net income exceeds \$500,000 and does not exceed \$1,000,000;

65 per centum of the amount by which the net income exceeds \$1,000,000.

(b) In the case of a bona fide sale of mines, oil or gas wells, or any interest therein, where the principal value of the property has been demonstrated by prospecting or exploration and discovery work done by the taxpayer, the portion of the tax imposed by this section attributable to such sale shall not exceed 20 per centum of the selling price of such property or interest. Sales of mines, oil or gas wells.

SEC. 212. (a) That in the case of an individual the term "net income" means the gross income as defined in section 213, less the deductions allowed by section 214. Net income defined.

(b) The net income shall be computed upon the basis of the taxpayer's annual accounting period (fiscal year or calendar year, as the case may be) in accordance with the method of accounting regularly employed in keeping the books of such taxpayer; but if no such method of accounting has been so employed, or if the method employed does not clearly reflect the income, the computation shall be made upon such basis and in such manner as in the opinion of the Commissioner does clearly reflect the income. If the taxpayer's annual accounting period is other than a fiscal year as defined in section 200 or if the taxpayer has no annual accounting period or does not keep books, the net income shall be computed on the basis of the calendar year. Computation of net income.

If a taxpayer changes his accounting period from fiscal year to calendar year, from calendar year to fiscal year, or from one fiscal year to another, the net income shall, with the approval of the Commissioner, be computed on the basis of such new accounting period, subject to the provisions of section 226.

Article 23, Regulations 45, as to bases of computation, modified. (T. D. 2873.)

SEC. 213. That for the purposes of this title (except as otherwise provided in section 233) the term "gross income" — Gross income defined.

(a) Includes gains, profits, and income derived from salaries, wages, or compensation for personal service (including in the case of the President of the United States, the judges of the Supreme and inferior courts of the United States, and all other officers and employees, whether elected or appointed, of the United States, Alaska, Hawaii, or any political subdivision thereof, or the District of Columbia, the compensation received as such), of whatever kind and in whatever form paid, or from professions, vocations, trades, businesses, commerce, or sales, or dealings in property, whether real or personal, growing out of the ownership or use of or interest in such property; also from interest, rent, divi-

dends, securities, or the transaction of any business carried on for gain or profit, or gains or profits and income derived from any source whatever. The amount of all such items shall be included in the gross income for the taxable year in which received by the taxpayer, unless, under methods of accounting permitted under subdivision (b) of section 212, any such amounts are to be properly accounted for as of a different period; but

State officials and employees not liable to tax on salaries and wages. (T. D. 2843.)

Lump sum paid for services for period of years is income for year in which received. (Jackson v. Smietanka, T. D. 2960.)

(b) Does not include the following items, which shall be exempt from taxation under this title:

Proceeds of life insurance policies.

(1) The proceeds of life insurance policies paid upon the death of the insured to individual beneficiaries or to the estate of the insured;

Amount received as return of premiums.

(2) The amount received by the insured as a return of premium or premiums paid by him under life insurance, endowment, or annuity contracts, either during the term or at the maturity of the term mentioned in the contract or upon surrender of the contract;

Value of property acquired by gift, bequest, etc.

(3) The value of property acquired by gift, bequest, devise, or descent (but the income from such property shall be included in gross income);

Interest upon obligations of State, Territory, or District of Columbia; Federal Farm Loan securities; War Finance Corporation bonds.

(4) Interest upon (a) the obligations of a State, Territory, or any political subdivision thereof, or the District of Columbia; or (b) securities issued under the provisions of the Federal Farm Loan Act of July 17, 1916; or (c) the obligations of the United States or its possessions; or (d) bonds issued by the War Finance Corporation: *Provided*, That every person owning any of the obligations, securities or bonds enumerated in clauses (a), (b), (c) and (d) shall, in the return required by this title, submit a statement showing the number and amount of such obligations, securities and bonds owned by him and the income received therefrom, in such form and with such information as the Commissioner may require. In the case of obligations of the United States issued after September 1, 1917, and in the case of bonds issued by the War Finance Corporation, the interest shall be exempt only if and to the extent provided in the respective Acts authorizing the issue thereof as amended and supplemented, and shall be excluded from gross income only if and to the extent it is wholly exempt from taxation to the taxpayer both under this title and under Title III;

Income of foreign governments from investments in the United States.

(5) The income of foreign governments received from investments in the United States in stocks, bonds, or other domestic securities, owned by such foreign governments, or from interest on deposits in banks in the United States of moneys belonging to such foreign governments, or from any other source within the United States;

(6) Amounts received, through accident or health insurance or under workmen's compensation acts, as compensation for personal injuries or sickness, plus the amount of any damages received whether by suit or agreement on account of such injuries or sickness; Amounts received through accident or health insurance or under workmen's compensation acts.

(7) Income derived from any public utility or the exercise of any essential governmental function and accruing to any State, Territory, or the District of Columbia, or any political subdivision of a State or Territory, or income accruing to the government of any possession of the United States, or any political subdivision thereof. Income from public utility accruing to any State, etc.

Whenever any State, Territory, or the District of Columbia, or any political subdivision of a State or Territory, prior to September 8, 1916, entered in good faith into a contract with any person, the object and purpose of which is to acquire, construct, operate, or maintain a public utility, no tax shall be levied under the provisions of this title upon the income derived from the operation of such public utility, so far as the payment thereof will impose a loss or burden upon such State, Territory, District of Columbia, or political subdivision; but this provision is not intended to confer upon such person any financial gain or exemption or to relieve such person from the payment of a tax as provided for in this title upon the part or portion of such income to which such person is entitled under such contract;

(8) So much of the amount received during the present war by a person in the military or naval forces of the United States as salary or compensation in any form from the United States for active services in such forces, as does not exceed \$3,500. Salaries of soldiers and sailors.

Liberty bonds and Victory notes. (T. Ds. 2836, 2857.)
Interest on Victory notes. (T. D. 2865.)

(c) In the case of nonresident alien individuals, gross income includes only the gross income from sources within the United States, including interest on bonds, notes, or other interest-bearing obligations of residents, corporations or otherwise, dividends from resident corporations, and including all amounts received (although paid under a contract for the sale of goods or otherwise) representing profits on the manufacture and disposition of goods within the United States. Nonresident alien individuals.

Determination of residence. (T. D. 2794.)

Wages of nonresident alien seamen derived from sources within United States; article 92a added to Regulations No. 45. (T. D. 2860.)

SEC. 214. (a) That in computing net income there shall be allowed as deductions:

Deductions.

(1) All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually

Expenses.

rendered, and including rentals or other payments required to be made as a condition to the continued use or possession, for purposes of the trade or business, of property to which the taxpayer has not taken or is not taking title or in which he has no equity;

Interest paid
or accrued.

(2) All interest paid or accrued within the taxable year on indebtedness, except on indebtedness incurred or continued to purchase or carry obligations or securities (other than obligations of the United States issued after September 24, 1917), the interest upon which is wholly exempt from taxation under this title as income to the taxpayer, or, in the case of a nonresident alien individual, the proportion of such interest which the amount of his gross income from sources within the United States bears to the amount of his gross income from all sources within and without the United States;

Taxes paid or
accrued.

(3) Taxes paid or accrued within the taxable year imposed (a) by the authority of the United States, except income, war-profits and excess-profits taxes; or (b) by the authority of any of its possessions, except the amount of income, war-profits and excess-profits taxes allowed as a credit under section 222; or (c) by the authority of any State or Territory, or any county, school district, municipality, or other taxing subdivision of any State or Territory, not including those assessed against local benefits of a kind tending to increase the value of the property assessed; or (d) in the case of a citizen or resident of the United States, by the authority of any foreign country, except the amount of income, war-profits and excess-profits taxes allowed as a credit under section 222; or (e) in the case of a nonresident alien individual, by the authority of any foreign country (except income, war-profits and excess-profits taxes, and taxes assessed against local benefits of a kind tending to increase the value of the property assessed), upon property or business;

Article 133, Regulations No. 45, relating to taxes for local assessments, amended. (T. D. 2937.)

Losses.

(4) Losses sustained during the taxable year and not compensated for by insurance or otherwise, if incurred in trade or business;

Article 141, Regulations No. 45, amended. (T. D. 2972.)

Same.

(5) Losses sustained during the taxable year and not compensated for by insurance or otherwise, if incurred in any transaction entered into for profit, though not connected with the trade or business; but in the case of a nonresident alien individual only as to such transactions within the United States;

Same.

(6) Losses sustained during the taxable year of property not connected with the trade or business (but in the case of a nonresident alien individual only property within the United States) if arising from fires, storms, shipwreck, or other casualty, or from theft, and if not compensated for by insurance or otherwise;

(7) Debts ascertained to be worthless and charged off within the taxable year; Bad debts.

(8) A reasonable allowance for the exhaustion, wear and tear of property used in the trade or business, including a reasonable allowance for obsolescence; Exhaustion, wear and tear; obsolescence.

Article 163, Regulations No. 45, relating to depreciation of intangible property, modified. (T. D. 2929.)

(9) In the case of buildings, machinery, equipment, or other facilities, constructed, erected, installed, or acquired, on or after April 6, 1917, for the production of articles contributing to the prosecution of the present war, and in the case of vessels constructed or acquired on or after such date for the transportation of articles or men contributing to the prosecution of the present war, there shall be allowed a reasonable deduction for the amortization of such part of the cost of such facilities or vessels as has been borne by the taxpayer, but not again including any amount otherwise allowed under this title or previous Acts of Congress as a deduction in computing net income. At any time within three years after the termination of the present war, the Commissioner may, and at the request of the taxpayer shall, reexamine the return, and if he then finds as a result of an appraisal or from other evidence that the deduction originally allowed was incorrect, the taxes imposed by this title and by Title III for the year or years affected shall be redetermined; and the amount of tax due upon such redetermination, if any, shall be paid upon notice and demand by the collector, or the amount of tax overpaid, if any, shall be credited or refunded to the taxpayer in accordance with the provisions of section 252; Amortization of cost of war facilities, etc.

(10) In the case of mines, oil and gas wells, other natural deposits, and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case, based upon cost including cost of development not otherwise deducted: *Provided*, That in the case of such properties acquired prior to March 1, 1913, the fair market value of the property (or the taxpayer's interest therein) on that date shall be taken in lieu of cost up to that date: *Provided further*, That in the case of mines, oil and gas wells, discovered by the taxpayer, on or after March 1, 1913, and not acquired as the result of purchase of a proven tract or lease, where the fair market value of the property is materially disproportionate to the cost, the depletion allowance shall be based upon the fair market value of the property at the date of the discovery, or within thirty days thereafter; such reasonable allowance in all the above cases to be made under rules and regulations to be prescribed by the Commissioner with the approval of the Secretary. In the case of leases the Depletion and depreciation in case of mines, timber, etc.

deductions allowed by this paragraph shall be equitably apportioned between the lessor and lessee;

Articles 234 and 235, relating to determination of fair market value and quantity of timber, added to Regulations No. 45. (T. D. 2916.)

Regulations No. 45 amended by substituting for articles 220 and 221, dealing with depletion after discovery of oil and gas wells, articles 220, 220(a), and 221. (T. D. 2956.)

Contributions
or gifts to chari-
table, educa-
tional, etc., cor-
porations.

(11) Contributions or gifts made within the taxable year to corporations organized and operated exclusively for religious, charitable, scientific, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, or to the special fund for vocational rehabilitation authorized by section 7 of the Vocational Rehabilitation Act, to an amount not in excess of 15 per centum of the taxpayer's net income as computed without the benefit of this paragraph. Such contributions or gifts shall be allowable as deductions only if verified under rules and regulations prescribed by the Commissioner, with the approval of the Secretary. In the case of a nonresident alien individual this deduction shall be allowed only as to contributions or gifts made to domestic corporations, or to such vocational rehabilitation fund;

Article 251, Regulations No. 45, relating to charitable contributions, amended. (T. Ds. 2966, 2977.)

Claim
abatement. and

(12) (a) At the time of filing return for the taxable year 1918 a taxpayer may file a claim in abatement based on the fact that he has sustained a substantial loss (whether or not actually realized by sale or other disposition) resulting from any material reduction (not due to temporary fluctuation) of the value of the inventory for such taxable year, or from the actual payment after the close of such taxable year of rebates in pursuance of contracts entered into during such year upon sales made during such year. In such case payment of the amount of the tax covered by such claim shall not be required until the claim is decided, but the taxpayer shall accompany his claim with a bond in double the amount of the tax covered by the claim, with sureties satisfactory to the Commissioner, conditioned for the payment of any part of such tax found to be due, with interest. If any part of such claim is disallowed then the remainder of the tax due shall on notice and demand by the collector be paid by the taxpayer with interest at the rate of 1 per centum per month from the time the tax would have been due had no such claim been filed. If it is shown to the satisfaction of the Commissioner that such substantial loss has been sustained, then in computing the tax imposed by this title the amount of such loss shall be deducted from the net income. (b) If no such claim is filed, but it is shown to the satisfaction of the Commissioner that during the taxable year 1919 the taxpayer has sustained a substantial loss of the character above

described then the amount of such loss shall be deducted from the net income for the taxable year 1918 and the tax imposed by this title for such year shall be redetermined accordingly. Any amount found to be due to the taxpayer upon the basis of such redetermination shall be credited or refunded to the taxpayer in accordance with the provisions of section 252.

Cost of war facilities which may be amortized; paragraph 3, article 184, Regulations No. 45, amended. (T. D. 2859.)
Instructions as to bonds. (T. D. 2925.)

(b) In the case of a nonresident alien individual the deductions allowed in paragraphs (1), (4), (7), (8), (9), (10), and (12), and clause (e) of paragraph (3), of subdivision (a) shall be allowed only if and to the extent that they are connected with income arising from a source within the United States; and the proper apportionment and allocation of the deductions with respect to sources of income within and without the United States shall be determined under rules and regulations prescribed by the Commissioner with the approval of the Secretary.

Nonresident alien individuals.

Returns by or for nonresident aliens. (T. Ds. 2811, 2815.)

SEC. 215. That in computing net income no deduction shall in any case be allowed in respect of—

Items not deductible.

(a) Personal, living, or family expenses;

Personal, etc., expenses.

(b) Any amount paid out for new buildings or for permanent improvements or betterments made to increase the value of any property or estate;

Amount paid for new buildings or for permanent improvements.

(c) Any amount expended in restoring property or in making good the exhaustion thereof for which an allowance is or has been made; or

Amount paid in restoring property.

(d) Premiums paid on any life insurance policy covering the life of any officer or employee, or of any person financially interested in any trade or business carried on by the taxpayer, when the taxpayer is directly or indirectly a beneficiary under such policy.

Premiums paid on certain life-insurance policies.

SEC. 216. That for the purpose of the normal tax only there shall be allowed the following credits:

Credits allowed.

(a) The amount received as dividends from a corporation which is taxable under this title upon its net income, and amounts received as dividends from a personal service corporation out of earnings or profits upon which income tax has been imposed by Act of Congress;

Dividends from certain corporations.

(b) The amount received as interest upon obligations of the United States and bonds issued by the War Finance Corporation, which is included in gross income under section 213;

Interest upon obligations of United States or bonds of War Finance Corporation.

(c) In the case of a single person, a personal exemption of \$1,000, or in the case of the head of a family or a married person living with husband or wife, a personal exemption of \$2,000. A husband and wife living together shall receive but one personal exemption of \$2,000 against their aggregate net income; and in case they

Personal exemption of single person.

Personal exemption of head of family or married person.

make separate returns, the personal exemption of \$2,000 may be taken by either or divided between them;

Dependents.

(d) \$200 for each person (other than husband or wife) dependent upon and receiving his chief support from the taxpayer, if such dependent person is under eighteen years of age or is incapable of self-support because mentally or physically defective.

Nonresident alien individuals.

(e) In the case of a nonresident alien individual who is a citizen or subject of a country which imposes an income tax, the credits allowed in subdivisions (c) and (d) shall be allowed only if such country allows a similar credit to citizens of the United States not residing in such country.

Personal exemption; article 307, of Regulations No. 45 amended. (T. Ds. 2892, 2906, 2922, 2970.)

Nonresident aliens — allowance of deductions and credits.

SEC. 217. That a nonresident alien individual shall receive the benefit of the deductions and credits allowed in this title only by filing or causing to be filed with the collector a true and accurate return of his total income received from all sources corporate or otherwise in the United States, in the manner prescribed by this title, including therein all the information which the Commissioner may deem necessary for the calculation of such deductions and credits: *Provided*, That the benefit of the credits allowed in subdivisions (c) and (d) of section 216 may, in the discretion of the Commissioner, and except as otherwise provided in subdivision (e) of that section, be received by filing a claim therefor with the withholding agent. In case of failure to file a return, the collector shall collect the tax on such income, and all property belonging to such nonresident alien individual shall be liable to distraint for the tax.

Personal exemption and dependents. (T. Ds. 2811, 2815.)

Determination of residence. (T. D. 2794.)

When alien seamen regarded as residents; article 312a added to Regulations No. 45. (T. D. 2869.)

Partnerships.

Computation of net income.

SEC. 218. (a) That individuals carrying on business in partnership shall be liable for income tax only in their individual capacity. There shall be included in computing the net income of each partner his distributive share, whether distributed or not, of the net income of the partnership for the taxable year, or, if his net income for such taxable year is computed upon the basis of a period different from that upon the basis of which the net income of the partnership is computed, then his distributive share of the net income of the partnership for any accounting period of the partnership ending within the fiscal or calendar year upon the basis of which the partner's net income is computed.

Credits.

The partner shall, for the purpose of the normal tax, be allowed as credits, in addition to the credits allowed to him under section 216, his proportionate share of such

amounts specified in subdivisions (a) and (b) of section 216 as are received by the partnership.

Taxability of income in shape of dividends on stock in corporation taxable on net income, income-tax law of 1913. (United States v. Coulby, 251 Fed., 582; T. D. 2858.)

(b) If a fiscal year of a partnership ends during a calendar year for which the rates of tax differ from those for the preceding calendar year, then (1) the rates for such preceding calendar year shall apply to an amount of each partner's share of such partnership net income equal to the proportion which the part of such fiscal year falling within such calendar year bears to the full fiscal year, and (2) the rates for the calendar year during which such fiscal year ends shall apply to the remainder.

Rate of tax.

(c) In the case of an individual member of a partnership which makes return for a fiscal year beginning in 1917 and ending in 1918, his proportionate share of any excess-profits tax imposed upon the partnership under the Revenue Act of 1917 with respect to that part of such fiscal year falling in 1917, shall, for the purpose of determining the tax imposed by this title, be credited against that portion of the net income embraced in his personal return for the taxable year 1918 to which the rates for 1917 apply.

Credits of excess profits tax.

(d) The net income of the partnership shall be computed in the same manner and on the same basis as provided in section 212 except that the deduction provided in paragraph (11) of subdivision (a) of section 214 shall not be allowed.

Computation of net income.

(e) Personal service corporations shall not be subject to taxation under this title, but the individual stockholders thereof shall be taxed in the same manner as the members of partnerships. All the provisions of this title relating to partnerships and the members thereof shall so far as practicable apply to personal service corporations and the stockholders thereof: *Provided*, That for the purpose of this subdivision amounts distributed by a personal service corporation during its taxable year shall be accounted for by the distributees; and any portion of the net income remaining undistributed at the close of its taxable year shall be accounted for by the stockholders of such corporation at the close of its taxable year in proportion to their respective shares.

Personal service corporation.

SEC. 219. (a) That the tax imposed by sections 210 and 211 shall apply to the income of estates or of any kind of property held in trust, including—

Estates and trusts.

(1) Income received by estates of deceased persons during the period of administration or settlement of the estate;

(2) Income accumulated in trust for the benefit of unborn or unascertained persons or persons with contingent interests;

(3) Income held for future distribution under the terms of the will or trust; and

(4) Income which is to be distributed to the beneficiaries periodically, whether or not at regular intervals, and the income collected by a guardian of an infant to be held or distributed as the court may direct.

Fiduciary's responsibility for returns.

Computation of net income.

Deductions.

(b) The fiduciary shall be responsible for making the return of income for the estate or trust for which he acts. The net income of the estate or trust shall be computed in the same manner and on the same basis as provided in section 212, except that there shall also be allowed as a deduction (in lieu of the deduction authorized by paragraph (11) of subdivision (a) of section 214) any part of the gross income which, pursuant to the terms of the will or deed creating the trust, is during the taxable year paid to or permanently set aside for the United States, any State, Territory, or any political subdivision thereof, or the District of Columbia, or any corporation organized and operated exclusively for religious, charitable, scientific, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual; and in cases under paragraph (4) of subdivision (a) of this section the fiduciary shall include in the return a statement of each beneficiary's distributive share of such net income, whether or not distributed before the close of the taxable year for which the return is made.

Imposition of tax as to paragraphs (1), (2), or (3) of subdivision (a).

(c) In cases under paragraph (1), (2), or (3) of subdivision (a) the tax shall be imposed upon the net income of the estate or trust and shall be paid by the fiduciary, except that in determining the net income of the estate of any deceased person during the period of administration or settlement there may be deducted the amount of any income properly paid or credited to any legatee, heir or other beneficiary. In such cases the estate or trust shall, for the purpose of the normal tax, be allowed the same credits as are allowed to single persons under section 216.

Cases under paragraph (4) of subdivision (a), and subdivision (c).

(d) In cases under paragraph (4) of subdivision (a), and in the case of any income of an estate during the period of administration or settlement permitted by subdivision (c) to be deducted from the net income upon which tax is to be paid by the fiduciary, the tax shall not be paid by the fiduciary, but there shall be included in computing the net income of each beneficiary his distributive share, whether distributed or not, of the net income of the estate or trust for the taxable year, or, if his net income for such taxable year is computed upon the basis of a period different from that upon the basis of which the net income of the estate or trust is computed, then his distributive share of the net income of the estate or trust for any accounting period of such estate or trust ending within the fiscal or calendar year upon the basis

of which such beneficiary's net income is computed. In such cases the beneficiary shall, for the purpose of the normal tax, be allowed as credits in addition to the credits allowed to him under section 216, his proportionate share of such amounts specified in subdivisions (a) and (b) of section 216 as are received by the estate or trust.

Estates and trusts which cannot be treated as a unit; article 347, Regulations No. 45. (T. D. 2987.)

SEC. 220. That if any corporation, however, created or organized, is formed or availed of for the purpose of preventing the imposition of the surtax upon its stockholders or members through the medium of permitting its gains and profits to accumulate instead of being divided or distributed, such corporation shall not be subject to the tax imposed by section 230, but the stockholders or members thereof shall be subject to taxation under this title in the same manner as provided in subdivision (e) of section 218 in the case of stockholders of a personal service corporation, except that the tax imposed by Title III shall be deducted from the net income of the corporation before the computation of the proportionate share of each stockholder or member. The fact that any corporation is a mere holding company, or that the gains and profits are permitted to accumulate beyond the reasonable needs of the business, shall be prima facie evidence of a purpose to escape the surtax; but the fact that the gains and profits are in any case permitted to accumulate and become surplus shall not be construed as evidence of a purpose to escape the tax in such case unless the Commissioner certifies that in his opinion such accumulation is unreasonable for the purposes of the business. When requested by the Commissioner, or any collector, every corporation shall forward to him a correct statement of such gains and profits and the names and addresses of the individuals or shareholders who would be entitled to the same if divided or distributed, and of the amounts that would be payable to each.

Profits of corporations able to stockholders.

SEC. 221. (a) That all individuals, corporations and partnerships, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of the United States, having the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income, of any nonresident alien individual (other than income received as dividends from a corporation which is taxable under this title upon its net income) shall (except in the cases provided for in subdivision (b) and except as otherwise provided in regulations prescribed by the Commissioner under section 217) deduct and withhold from such annual or periodical gains, profits, and income a tax equal to 8 per centum

Payment of tax at source.

thereof: *Provided*, That the Commissioner may authorize such tax to be deducted and withheld from the interest upon any securities the owners of which are not known to the withholding agent.

Cases where obligor agrees to pay tax imposed on obligee.

(b) In any case where bonds, mortgages, or deeds of trust, or other similar obligations of a corporation contain a contract or provision by which the obligor agrees to pay any portion of the tax imposed by this title upon the obligee, or to reimburse the obligee for any portion of the tax, or to pay the interest without deduction for any tax which the obligor may be required or permitted to pay thereon or to retain therefrom under any law of the United States, the obligor shall deduct and withhold a tax equal to 2 per centum of the interest upon such bonds, mortgages, deeds of trust, or other obligations, whether such interest is payable annually or at shorter or longer periods and whether payable to a nonresident alien individually or to an individual citizen or resident of the United States or to a partnership: *Provided*, That the Commissioner may authorize such tax to be deducted and withheld in the case of interest upon any such bonds, mortgages, deeds of trust or other obligations, the owners of which are not known to the withholding agent. Such deduction and withholding shall not be required in the case of a citizen or resident entitled to receive such interest, if he files with the withholding agent on or before February 1 a signed notice in writing claiming the benefit of the credits provided in subdivisions (c) and (d) of section 216; nor in the case of a nonresident alien individual if so provided for in regulations prescribed by the Commissioner under section 217.

Time to make return and pay tax.

(c) Every individual, corporation, or partnership required to deduct and withhold any tax under this section shall make return thereof on or before March first of each year and shall on or before June fifteenth pay the tax to the official of the United States Government authorized to receive it. Every such individual, corporation, or partnership is hereby made liable for such tax and is hereby indemnified against the claims and demands of any individual, corporation, or partnership for the amount of any payments made in accordance with the provisions of this section.

Indemnity.

Return by recipient of income.

(d) Income upon which any tax is required to be withheld at the source under this section shall be included in the return of the recipient of such income, but any amount of tax so withheld shall be credited against the amount of income tax as computed in such return.

Re-collection from withholding agent.

(e) If any tax required under this section to be deducted and withheld is paid by the recipient of the income, it shall not be re-collected from the withholding agent; nor in cases in which the tax is so paid shall any penalty be imposed upon or collected from the recipient of the income or the withholding agent for failure to

return or pay the same, unless such failure was fraudulent and for the purpose of evading payment.

Regulations No. 45 amended by adding new article (363a), relating to relief of domestic corporations which have assumed payment of tax with respect to tax-free covenant bonds owned by nonresident aliens who are entitled to credits for personal exemption and dependents, but whose incomes from sources in United States do not exceed such credits. (T. D. 2920.)

Revised form of ownership certificates. (T. D. 2923.)

Article 367, Regulations No. 45, relating to use of substitute certificates, amended. (T. D. 2967.)

Article 375, Regulations No. 45, relating to withholding in case of enemies, amended. (T. D. 2969.)

SEC. 222. (a) That the tax computed under Part II of this title shall be credited with: Credit for taxes.

(1) In the case of a citizen of the United States, the amount of any income, war-profits and excess-profits taxes paid during the taxable year to any foreign country, upon income derived from sources therein, or to any possession of the United States; and Income, war profits, and excess profits taxes paid to foreign country.

(2) In the case of a resident of the United States, the amount of any such taxes paid during the taxable year to any possession of the United States; and Taxes paid to possession of United States.

(3) In the case of an alien resident of the United States who is a citizen or subject of a foreign country, the amount of any such taxes paid during the taxable year to such country, upon income derived from sources therein, if such country, in imposing such taxes, allows a similar credit to citizens of the United States residing in such country; and Alien residents.

(4) In the case of any such individual who is a member of a partnership or a beneficiary of an estate or trust, his proportionate share of such taxes of the partnership or the estate or trust paid during the taxable year to a foreign country or to any possession of the United States, as the case may be. Partners or beneficiaries of estate or trust.

(b) If accrued taxes when paid differ from the amounts claimed as credits by the taxpayer, or if any tax paid is refunded in whole or in part, the taxpayer shall notify the Commissioner who shall redetermine the amount of the tax due under Part II of this title for the year or years affected, and the amount of tax due upon such redetermination, if any, shall be paid by the taxpayer upon notice and demand by the collector, or the amount of tax overpaid, if any, shall be credited or refunded to the taxpayer in accordance with the provisions of section 252. In the case of such a tax accrued but not paid, the Commissioner as a condition precedent to the allowance of this credit may require the taxpayer to give a bond with sureties satisfactory to and to be approved by the Commissioner in such penal sum as the Commissioner may require, conditioned for the payment by the taxpayer of any amount of tax found due upon any such redetermination; and the bond herein prescribed shall contain such further conditions as the Commissioner may require. Redetermination of amount of tax due.

Bond to be given by taxpayer.

Evidence.

(c) These credits shall be allowed only if the taxpayer furnishes evidence satisfactory to the Commissioner showing the amount of income derived from sources within such foreign country or such possession of the United States, and all other information necessary for the computation of such credits.

Individual re-
turns.

SEC. 223. That every individual having a net income for the taxable year of \$1,000 or over if single or if married and not living with husband or wife, or of \$2,000 or over if married and living with husband or wife, shall make under oath a return stating specifically the items of his gross income and the deductions and credits allowed by this title. If a husband and wife living together have an aggregate net income of \$2,000 or over, each shall make such a return unless the income of each is included in a single joint return.

If the taxpayer is unable to make his own return, the return shall be made by a duly authorized agent or by the guardian or other person charged with the care of the person or property of such taxpayer.

Article 406, Regulations No. 45, as to verification of returns, amended. (T. D. 2951.)

Partnership re-
turns.

SEC. 224. That every partnership shall make a return for each taxable year, stating specifically the items of its gross income and the deductions allowed by this title, and shall include in the return the names and addresses of the individuals who would be entitled to share in the net income if distributed and the amount of the distributive share of each individual. The return shall be sworn to by any one of the partners.

Fiduciary re-
turns.

SEC. 225. That every fiduciary (except receivers appointed by authority of law in possession of part only of the property of an individual) shall make under oath a return for the individual, estate or trust for which he acts (1) if the net income of such individual is \$1,000 or over if single or if married and not living with husband or wife, or \$2,000 or over if married and living with husband or wife, or (2) if the net income of such estate or trust is \$1,000 or over or if any beneficiary of such estate or trust is a nonresident alien, stating specifically the items of the gross income and the deductions and credits allowed by this title. Under such regulations as the Commissioner with the approval of the Secretary may prescribe, a return made by one of two or more joint fiduciaries and filed in the office of the collector of the district where such fiduciary resides shall be a sufficient compliance with the above requirement. The fiduciary shall make oath that he has sufficient knowledge of the affairs of such individual, estate or trust to enable him to make the return, and that the same is, to the best of his knowledge and belief, true and correct.

Fiduciaries required to make returns under this Act shall be subject to all the provisions of this Act which apply to individuals.

SEC. 226. That if a taxpayer, with the approval of the Commissioner, changes the basis of computing net income from fiscal year to calendar year a separate return shall be made for the period between the close of the last fiscal year for which return was made and the following December thirty-first. If the change is from calendar year to fiscal year, a separate return shall be made for the period between the close of the last calendar year for which return was made and the date designated as the close of the fiscal year. If the change is from one fiscal year to another fiscal year a separate return shall be made for the period between the close of the former fiscal year and the date designated as the close of the new fiscal year. If a taxpayer making his first return for income tax keeps his accounts on the basis of a fiscal year he shall make a separate return for the period between the beginning of the calendar year in which such fiscal year ends and the end of such fiscal year.

Returns when accounting period changed.

In all of the above cases the net income shall be computed on the basis of such period for which separate return is made, and the tax shall be paid thereon at the rate for the calendar year in which such period is included; and the credits provided in subdivisions (c) and (d) of section 216 shall be reduced respectively to amounts which bear the same ratio to the full credits provided in such subdivisions as the number of months in such period bears to twelve months.

SEC. 227. (a) That returns shall be made on or before the fifteenth day of the third month following the close of the fiscal year, or, if the return is made on the basis of the calendar year, then the return shall be made on or before the fifteenth day of March. The Commissioner may grant a reasonable extension of time for filing returns whenever in his judgment good cause exists and shall keep a record of every such extension and the reason therefor. Except in the case of taxpayers who are abroad, no such extension shall be for more than six months.

Time for filing returns.

Extension of time.

Extension of time as to persons abroad; Regulations No. 45, article 445, amended. (T. D. 2844.)

Article 443, Regulations No. 45, relating to extension of time for filing returns by the collector, amended. (T. D. 2835.)

(b) Returns shall be made to the collector for the district in which is located the legal residence or principal place of business of the person making the return, or, if he has no legal residence or principal place of business in the United States, then to the collector at Baltimore, Maryland.

Place for filing returns.

SEC. 228. That if the collector or deputy collector has reason to believe that the amount of any income returned is understated, he shall give due notice to the taxpayer making the return to show cause why the amount of the return should not be increased, and upon proof of the

Understatement in returns.

amount understated, may increase the same accordingly. Such taxpayer may furnish sworn testimony to prove any relevant facts and if dissatisfied with the decision of the collector may appeal to the Commissioner for his decision, under such rules of procedure as may be prescribed by the Commissioner with the approval of the Secretary.

PART III.—CORPORATIONS.

Rates of tax
on corporations.

SEC. 230. (a) That, in lieu of the taxes imposed by section 10 of the Revenue Act of 1916, as amended by the Revenue Act of 1917, and by section 4 of the Revenue Act of 1917, there shall be levied, collected, and paid for each taxable year upon the net income of every corporation a tax at the following rates:

(1) For the calendar year 1918, 12 per centum of the amount of the net income in excess of the credits provided in section 236; and

(2) For each calendar year thereafter, 10 per centum of such excess amount.

Transportation
systems under
Federal control.

(b) For the purposes of the Act approved March 21, 1918, entitled "An Act to provide for the operation of transportation systems while under Federal control, for the just compensation of their owners, and for other purposes," five-sixths of the tax imposed by paragraph (1) of subdivision (a) and four-fifths of the tax imposed by paragraph (2) of subdivision (a) shall be treated as levied by an Act in amendment of Title I of the Revenue Act of 1917.

Conditional and
other exemp-
tions.

SEC. 231. That the following organizations shall be exempt from taxation under this title—

Labor, agricul-
tural, etc., or-
ganizations.
Mutual savings
banks.

(1) Labor, agricultural, or horticultural organizations;
(2) Mutual savings banks not having a capital stock represented by shares;

Fraternal bene-
ficiary societies.

(3) Fraternal beneficiary societies, orders, or associations, (a) operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and (b) providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents;

Building and
loan associa-
tions; coopera-
tive banks.

(4) Domestic building and loan associations and co-operative banks without capital stock organized and operated for mutual purposes and without profit;

Cemetery com-
panies.

(5) Cemetery companies owned and operated exclusively for the benefit of their members;

Charitable, edu-
cational, etc.,
corporations.

(6) Corporations organized and operated exclusively for religious, charitable, scientific, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual;

Chambers of
commerce, boards
of trade, etc.

(7) Business leagues, chambers of commerce, or boards of trade, not organized for profit and no part of the net

earnings of which inures to the benefit of any private stockholder or individual;

(8) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare; Civic leagues or organizations.

(9) Clubs organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, no part of the net earnings of which inures to the benefit of any private stockholder or member; Pleasure, etc., clubs.

(10) Farmers' or other mutual hail, cyclone, or fire insurance companies, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations of a purely local character, the income of which consists solely of assessments, dues, and fees collected from members for the sole purpose of meeting expenses; Mutual insurance, etc., companies of local character.

(11) Farmers', fruit growers', or like associations, organized and operated as sales agents for the purpose of marketing the products of members and turning back to them the proceeds of sales, less the necessary selling expenses, on the basis of the quantity of produce furnished by them; Farmers' associations operated as sales agents.

(12) Corporations organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this title; Holding companies.

(13) Federal land banks and national farm-loan associations as provided in section 26 of the act approved July 17, 1916, entitled "An Act to provide capital for agricultural development, to create standard forms of investment based upon farm mortgage, to equalize rates of interest upon farm loans, to furnish a market for United States bonds, to create Government depositories and financial agents for the United States, and for other purposes"; Federal land banks and national farm-loan associations.

(14) Personal service corporations.

SEC. 232. That in the case of a corporation subject to the tax imposed by section 230 the term "net income" means the gross income as defined in section 233 less the deductions allowed by section 234, and the net income shall be computed on the same basis as is provided in subdivision (b) of section 212 or in section 226. Personal service corporations. Net income defined.

SEC. 233. (a) That in the case of a corporation subject to the tax imposed by section 230 the term "gross income" means the gross income as defined in section 213, except that: Gross income defined.

(1) In the case of life insurance companies there shall not be included in gross income such portion of any actual premium received from any individual policyholder as is paid back or credited to or treated as an abatement of premium of such policyholder within the taxable year. Life insurance companies.

Mutual marine insurance companies.

(2) Mutual marine insurance companies shall include in gross income the gross premiums collected and received by them less amounts paid for reinsurance.

Foreign corporations.

(b) In the case of a foreign corporation gross income includes only the gross income from sources within the United States, including the interest on bonds, notes, or other interest-bearing obligations of residents, corporate or otherwise, dividends from resident corporations, and including all amounts received (although paid under a contract for the sale of goods or otherwise) representing profits on the manufacture and disposition of goods within the United States.

Deductions allowed.

SEC. 234. (a) That in computing the net income of a corporation subject to the tax imposed by section 230 there shall be allowed as deductions:

Expenses.

(1) All the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered, and including rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking title, or in which it has no equity;

Interest paid or accrued.

(2) All interest paid or accrued within the taxable year on its indebtedness, except on indebtedness incurred or continued to purchase or carry obligations or securities (other than obligations of the United States issued after September 24, 1917) the interest upon which is wholly exempt from taxation under this title as income to the taxpayer, or, in the case of a foreign corporation, the proportion of such interest which the amount of its gross income from sources within the United States bears to the amount of its gross income from all sources within and without the United States;

Taxes paid or accrued.

(3) Taxes paid or accrued within the taxable year imposed (a) by the authority of the United States, except income, war-profits and excess-profits taxes; or (b) by the authority of any of its possessions, except the amount of income, war-profits and excess-profits taxes allowed as a credit under section 238; or (c) by the authority of any State or Territory, or any county, school district, municipality, or other taxing subdivision of any State or Territory, not including those assessed against local benefits of a kind tending to increase the value of the property assessed; or (d) in the case of a domestic corporation, by the authority of any foreign country, except the amount of income, war-profits and excess-profits taxes allowed as a credit under section 238; or (e) in the case of a foreign corporation, by the authority of any foreign country (except income, war-profits and excess-profits taxes, and taxes assessed against local benefits of a kind tending to increase the value of the property assessed), upon the property or business: *Provided*, That in the case of obligors specified in subdivision (b) of sec-

tion 221 no deduction for the payment of the tax imposed by this title or any other tax paid pursuant to the contract or provision referred to in that subdivision, shall be allowed;

(4) Losses sustained during the taxable year and not compensated for by insurance or otherwise; Losses.

(5) Debts ascertained to be worthless and charged off within the taxable year; Bad debts.

(6) Amounts received as dividends from a corporation which is taxable under this title upon its net income, and amounts received as dividends from a personal service corporation out of earnings or profits upon which income tax has been imposed by Act of Congress; Dividends.

(7) A reasonable allowance for the exhaustion, wear and tear of property used in the trade or business, including a reasonable allowance for obsolescence; Wear and tear; obsolescence.

(8) In the case of buildings, machinery, equipment, or other facilities, constructed, erected, installed, or acquired, on or after April 6, 1917, for the production of articles contributing to the prosecution of the present war, and in the case of vessels constructed or acquired on or after such date for the transportation of articles or men contributing to the prosecution of the present war, there shall be allowed a reasonable deduction for the amortization of such part of the cost of such facilities or vessels as has been borne by the taxpayer, but not again including any amount otherwise allowed under this title or previous Acts of Congress as a deduction in computing net income. At any time within three years after the termination of the present war the Commissioner may, and at the request of the taxpayer shall, reexamine the return, and if he then finds as a result of an appraisal or from other evidence that the deduction originally allowed was incorrect, the taxes imposed by this title and by Title III for the year or years affected shall be redetermined and the amount of tax due upon such redetermination, if any, shall be paid upon notice and demand by the collector, or the amount of tax overpaid, if any, shall be credited or refunded to the taxpayer in accordance with the provisions of section 252; Amortization allowance.

(9) In the case of mines, oil and gas wells, other natural deposits, and timber, a reasonable allowance for depletion and for depreciation of improvements, according to the peculiar conditions in each case, based upon cost including cost of development not otherwise deducted: *Provided*, That in the case of such properties acquired prior to March 1, 1913, the fair market value of the property (or the taxpayer's interest therein) on that date shall be taken in lieu of cost up to that date: *Provided further*, That in the case of mines, oil and gas wells, discovered by the taxpayer, on or after March 1, 1913, and not acquired as the result of purchase of a proven tract or lease, where the fair market value of the property is materially disproportionate to the cost, the depletion allow- Mines, timber, etc.

ance shall be based upon the fair market value of the property at the date of the discovery, or within thirty days thereafter; such reasonable allowance in all the above cases to be made under rules and regulations to be prescribed by the Commissioner with the approval of the Secretary. In the case of leases the deductions allowed by this paragraph shall be equitably apportioned between the lessor and lessee;

Insurance companies.

(10) In the case of insurance companies, in addition to the above: (a) The net addition required by law to be made within the taxable year to reserve funds (including in the case of assessment insurance companies the actual deposit of sums with State or Territorial officers pursuant to law as additions to guarantee or reserve funds); and (b) the sums other than dividends paid within the taxable year on policy and annuity contracts;

Life, health, and accident insurance.

(11) In the case of corporations issuing policies covering life, health, and accident insurance combined in one policy issued on the weekly premium payment plan continuing for life and not subject to cancellation, in addition to the above, such portion of the net addition (not required by law) made within the taxable year to reserve funds as the Commissioner finds to be required for the protection of the holders of such policies only;

Mutual marine insurance companies.

(12) In the case of mutual marine insurance companies, there shall be allowed, in addition to the deductions allowed in paragraphs (1) to (10), inclusive, amounts repaid to policyholders on account of premiums previously paid by them, and interest paid upon such amounts between the ascertainment and the payment thereof;

Other mutual insurance companies.

(13) In the case of mutual insurance companies (other than mutual life or mutual marine insurance companies) requiring their members to make premium deposits to provide for losses and expenses, there shall be allowed, in addition to the deductions allowed in paragraphs (1) to (10), inclusive, (unless otherwise allowed under such paragraphs) the amount of premium deposits returned to their policyholders and the amount of premium deposits retained for the payment of losses, expenses, and reinsurance reserves;

Claim abatement.

(14) (a) At the time of filing return for the taxable year 1918 a taxpayer may file a claim in abatement based on the fact that he has sustained a substantial loss (whether or not actually realized by sale or other disposition) resulting from any material reduction (not due to temporary fluctuation) of the value of the inventory for such taxable year, or from the actual payment after the close of such taxable year of rebates in pursuance of contracts entered into during such year upon sales made during such year. In such case payment of the amount of the tax covered by such claim shall not be required until the claim is decided, but the taxpayer shall accompany his claim, with a bond in double the amount of the tax covered by the claim, with sureties satisfactory to the Com-

Bond of taxpayer.

missioner, conditioned for the payment of any part of such tax found to be due, with interest. If any part of such claim is disallowed then the remainder of the tax due shall on notice and demand by the collector be paid by the taxpayer with interest at the rate of 1 per centum per month from the time the tax would have been due had no such claim been filed. If it is shown to the satisfaction of the Commissioner that such substantial loss has been sustained; then in computing the taxes imposed by this title and by Title III the amount of such loss shall be deducted from the net income. (b) If no such claim is filed, but it is shown to the satisfaction of the Commissioner that during the taxable year 1919 the taxpayer has sustained a substantial loss of the character above described then the amount of such loss shall be deducted from the net income for the taxable year 1918 and the taxes imposed by this title and by Title III for such year shall be redetermined accordingly. Any amount found to be due to the taxpayer upon the basis of such redetermination shall be credited or refunded to the taxpayer in accordance with the provisions of section 252.

Deduction of loss where no claim filed.

Contributions to religious, etc., corporations not deductible, though to Red Cross or other war activities. (T. D. 2847.)

Instructions as to bonds. (T. D. 2925.)

(b) In the case of a foreign corporation the deductions allowed in subdivision (a), except those allowed in paragraph (2) and in clauses (a), (b), and (c) of paragraph (3), shall be allowed only if and to the extent that they are connected with income arising from a source within the United States; and the proper apportionment and allocation of the deductions with respect to sources of income within and without the United States shall be determined under rules and regulations prescribed by the Commissioner with the approval of the Secretary.

Foreign corporations.

SEC. 235. That in computing net income no deduction shall in any case be allowed in respect of any of the items specified in section 215.

Items not deductible.

SEC. 236. That for the purpose only of the tax imposed by section 230 there shall be allowed the following credits:

Credits allowed.

(a) The amount received as interest upon obligations of the United States and bonds issued by the War Finance Corporation, which is included in gross income under section 233;

Interest upon United States obligations and bonds of War Finance Corporation.

(b) The amount of any taxes imposed by Title III for the same taxable year: *Provided*, That in the case of a corporation which makes return for a fiscal year beginning in 1917 and ending in 1918, in computing the tax as provided in subdivision (a) of section 205, the tax computed for the entire period under Title II of the Revenue Act of 1917 shall be credited against the net income computed for the entire period under Title I of the Revenue Act of 1916 as amended by the Revenue Act of 1917 and

Taxes.

under Title I of the Revenue Act of 1917, and the tax computed for the entire period under Title III of this Act at the rates prescribed for the calendar year 1918 shall be credited against the net income computed for the entire period under this title; and

Domestic cor-
porations.
Payment of
tax at source.

(c) In the case of a domestic corporation, \$2,000.

SEC. 237. That in the case of foreign corporations subject to taxation under this title not engaged in trade or business within the United States and not having any office or place of business therein, there shall be deducted and withheld at the source in the same manner and upon the same items of income as is provided in section 221 a tax equal to 10 per centum thereof, and such tax shall be returned and paid in the same manner and subject to the same conditions as provided in that section: *Provided*, That in the case of interest described in subdivision (b) of that section the deduction and withholding shall be at the rate of 2 per centum.

Credit for
taxes.

SEC. 238. (a) That in the case of a domestic corporation the total taxes imposed for the taxable year by this title and by Title III shall be credited with the amount of any income, war-profits and excess-profits taxes paid during the taxable year to any foreign country, upon income derived from sources therein, or to any possession of the United States.

If accrued taxes when paid differ from the amounts claimed as credits by the corporation, or if any tax paid is refunded in whole or in part, the corporation shall at once notify the Commissioner who shall redetermine the amount of the taxes due under this title and under Title III for the year or years affected, and the amount of taxes due upon such redetermination, if any, shall be paid by the corporation upon notice and demand by the collector, or the amount of taxes overpaid, if any, shall be credited or refunded to the corporation in accordance with the provisions of section 252. In the case of such a tax accrued, but not paid, the Commissioner as a condition precedent to the allowance of this credit may require the corporation to give a bond with sureties satisfactory to and to be approved by him in such penal sum as he may require, conditioned for the payment by the taxpayer of any amount of taxes found due upon any such redetermination; and the bond herein prescribed shall contain such further conditions as the Commissioner may require.

Evidence.

(b) This credit shall be allowed only if the taxpayer furnishes evidence satisfactory to the Commissioner showing the amount of income derived from sources within such foreign country or such possession of the United States, as the case may be, and all other information necessary for the computation of such credit.

Fiscal year
ending in 1918.

(c) If a domestic corporation makes a return for a fiscal year beginning in 1917 and ending in 1918, only that proportion of this credit shall be allowed which the part

of such period within the calendar year 1918 bears to the entire period.

SEC. 239. That every corporation subject to taxation under this title and every personal service corporation shall make a return stating specifically the items of its gross income and the deductions and credits allowed by this title. The return shall be sworn to by the president, vice president, or other principal officer and by the treasurer or assistant treasurer. If any foreign corporation has no office or place of business in the United States but has an agent in the United States, the return shall be made by the agent. In cases where receivers, trustees in bankruptcy, or assignees are operating the property or business of corporations, such receivers, trustees, or assignees shall make returns for such corporations in the same manner and form as corporations are required to make returns. Any tax due on the basis of such returns made by receivers, trustees, or assignees shall be collected in the same manner as if collected from the corporations of whose business or property they have custody and control.

Corporation returns.

Returns made under this section shall be subject to the provisions of sections 226 and 228. When return is made under section 226 the credit provided in subdivision (c) of section 236 shall be reduced to an amount which bears the same ratio to the full credit therein provided as the number of months in the period for which such return is made bears to twelve months.

SEC. 240. (a) That corporations which are affiliated within the meaning of this section shall, under regulations to be prescribed by the Commissioner with the approval of the Secretary, make a consolidated return of net income and invested capital for the purposes of this title and Title III, and the taxes thereunder shall be computed and determined upon the basis of such return: *Provided*, That there shall be taken out of such consolidated net income and invested capital, the net income and invested capital of any such affiliated corporation organized after August 1, 1914, and not successor to a then existing business, 50 per centum or more of whose gross income consists of gains, profits, commissions, or other income, derived from a Government contract or contracts made between April 6, 1917, and November 11, 1918, both dates inclusive. In such case the corporation so taken out shall be separately assessed on the basis of its own invested capital and net income and the remainder of such affiliated group shall be assessed on the basis of the remaining consolidated invested capital and net income.

Consolidated returns.

In any case in which a tax is assessed upon the basis of a consolidated return, the total tax shall be computed in the first instance as a unit and shall then be assessed upon the respective affiliated corporations in such proportions as may be agreed upon among them, or, in the absence of any such agreement, then on the basis of the

net income properly assignable to each. There shall be allowed in computing the income tax only one specific credit of \$2,000 (as provided in section 236); in computing the war-profits credit (as provided in section 311) only one specific exemption of \$3,000; and in computing the excess-profits credit (as provided in section 312) only one specific exemption of \$3,000.

Amended returns accepted so that taxable years of affiliated corporations will coincide. (T. D. 2805.)

What corporations deemed affiliated.

(b) For the purpose of this section two or more domestic corporations shall be deemed to be affiliated (1) if one corporation owns directly or controls through closely affiliated interests or by a nominee or nominees substantially all the stock of the other or others, or (2) if substantially all the stock of two or more corporations is owned or controlled by the same interests.

Domestic corporation owning majority of voting stock of foreign corporation.

(c) For the purposes of section 238 a domestic corporation which owns a majority of the voting stock of a foreign corporation shall be deemed to have paid the same proportion of any income, war-profits and excess-profits taxes paid (but not including taxes accrued) by such foreign corporation during the taxable year to any foreign country or to any possession of the United States upon income derived from sources without the United States, which the amount of any dividends (not deductible under section 234) received by such domestic corporation from such foreign corporation during the taxable year bears to the total taxable income of such foreign corporation upon or with respect to which such taxes were paid: *Provided*, That in no such case shall the amount of the credit for such taxes exceed the amount of such dividends (not deductible under section 234) received by such domestic corporation during the taxable year.

Time for filing returns.

SEC. 241. (a) That returns of corporations shall be made at the same time as is provided in subdivision (a) of section 227.

Time for filing returns by partnerships and personal service corporations having fiscal year ended January 31, February 28, March 31, or April 30 extended to August 15, 1919. (T. D. 2883.)

Place for filing returns.

(b) Returns shall be made to the collector of the district in which is located the principal place of business or principal office or agency of the corporation, or, if it has no principal place of business or principal office or agency in the United States, then to the collector at Baltimore, Maryland.

PART IV.—ADMINISTRATIVE PROVISIONS.

Payment of taxes in installments.

SEC. 250. (a) That except as otherwise provided in this section and sections 221 and 237 the tax shall be paid in four installments, each consisting of one-fourth of the total amount of the tax. The first installment shall be

paid at the time fixed by law for filing the return, and the second installment shall be paid on the fifteenth day of the third month, the third installment on the fifteenth day of the sixth month, and the fourth installment on the fifteenth day of the ninth month, after the time fixed by law for filing the return. Where an extension of time for filing a return is granted the time for payment of the first installment shall be postponed until the date of the expiration of the period of the extension, but the time for payment of the other installments shall not be postponed unless the Commissioner so provides in granting the extension. In any case in which the time for the payment of any installment is at the request of the taxpayer thus postponed, there shall be added as part of such installment interest thereon at the rate of $\frac{1}{2}$ of 1 per centum per month from the time it would have been due if no extension had been granted, until paid. If any installment is not paid when due, the whole amount of the tax unpaid shall become due and payable upon notice and demand by the collector.

The tax may at the option of the taxpayer be paid in a single payment instead of in installments, in which case the total amount shall be paid on or before the time fixed by law for filing the return, or, where an extension of time for filing the return has been granted, on or before the expiration of the period of such extension.

Time of payment where single payment made.

Instructions as to acceptance of certificates of indebtedness in payment of taxes due June 16, 1919. (T. D. 2850.)

Time of payment where corporation has filed return for fiscal year ending in 1918. (T. D. 2797.)

Acceptance of certificates of indebtedness in payment of taxes payable September 5, 1919, and December 15, 1919. (Articles 1731 and 1732, Regulations No. 45, supplemented; T. D. 2907.)

(b) As soon as practicable after the return is filed, the Commissioner shall examine it. If it then appears that the correct amount of the tax is greater or less than that shown in the return, the installments shall be recomputed. If the amount already paid exceeds that which should have been paid on the basis of the installments as recomputed, the excess so paid shall be credited against the subsequent installments; and if the amount already paid exceeds the correct amount of the tax, the excess shall be credited or refunded to the taxpayer in accordance with the provisions of section 252.

Examination of return by Commissioner.

Recomputation of installments. Credits.

If the amount already paid is less than that which should have been paid, the difference shall, to the extent not covered by any credits then due to the taxpayer under section 252, be paid upon notice and demand by the collector. In such case if the return is made in good faith and the understatement of the amount in the return is not due to any fault of the taxpayer, there shall be no penalty because of such understatement. If the understatement is due to negligence on the part of the tax-

Payment in case of underpayment.

Penalties.

payer, but without intent to defraud, there shall be added as part of the tax 5 per centum of the total amount of the deficiency, plus interest at the rate of 1 per centum per month on the amount of the deficiency of each installment from the time the installment was due.

Penalties in case of fraud.

If the understatement is false or fraudulent with intent to evade the tax, then, in lieu of the penalty provided by section 3176 of the Revised Statutes, as amended, for false or fraudulent returns willfully made, but in addition to other penalties provided by law for false or fraudulent returns, there shall be added as part of the tax 50 per centum of the amount of the deficiency.

Payment upon notice and demand.

(c) If the return is made pursuant to section 2176 of the Revised Statutes as amended, the amount of tax determined to be due under such return shall be paid upon notice and demand by the collector.

Time for determination and assessment of tax.

(d) Except in the case of false or fraudulent returns with intent to evade the tax, the amount of tax due under any return shall be determined and assessed by the Commissioner within five years after the return was due or was made, and no suit or proceeding for the collection of any tax shall be begun after the expiration of five years after the date when the return was due or was made. In the case of such false or fraudulent returns, the amount of tax due may be determined at any time after the return is filed, and the tax may be collected at any time after it becomes due.

Penalty in case of delinquency.

(e) If any tax remains unpaid after the date when it is due, and for ten days after notice and demand by the collector, then, except in the case of estates of insane, deceased, or insolvent persons, there shall be added as part of the tax the sum of 5 per centum on the amount due but unpaid, plus interest at the rate of 1 per centum per month upon such amount from the time it became due: *Provided*, That as to any such amount which is the subject of a bona fide claim for abatement such sum of 5 per centum shall not be added and the interest from the time the amount was due until the claim is decided shall be at the rate of $\frac{1}{2}$ of 1 per centum per month.

Notice of date when tax due and demand.

In the case of the first installment provided for in subdivision (a) the instructions printed on the return shall be deemed sufficient notice of the date when the tax is due and sufficient demand, and the taxpayer's computation of the tax on the return shall be deemed sufficient notice of the amount due.

Penalty in case of distraint.

(f) In any case in which in order to enforce payment of a tax it is necessary for a collector to cause a warrant of distraint to be served, there shall also be added as part of the tax the sum of \$5.

Taxable period for taxpayers designing to depart from United States or to conceal themselves.

(g) If the Commissioner finds that a taxpayer designs quickly to depart from the United States or to remove his property therefrom, or to conceal himself or his property therein, or to do any other act tending to prejudice or to render wholly or partly ineffectual proceed-

ings to collect the tax for the taxable year then last past or the taxable year then current unless such proceedings be brought without delay, the Commissioner shall declare the taxable period for such taxpayer terminated at the end of the calendar month then last past and shall cause notice of such finding and declaration to be given the taxpayer, together with a demand for immediate payment of the tax for the taxable period so declared terminated and of the tax for the preceding taxable year or so much of said tax as is unpaid, whether or not the time otherwise allowed by law for filing return and paying the tax has expired; and such taxes shall thereupon become immediately due and payable. In any action or suit brought to enforce payment of taxes made due and payable by virtue of the provisions of this subdivision the finding of the Commissioner, made as herein provided, whether made after notice to the taxpayer or not, shall be for all purposes presumptive evidence of the taxpayer's design. A taxpayer who is not in default in making any return or paying income, war-profits, or excess-profits tax under any Act of Congress may furnish to the United States, under regulations to be prescribed by the Commissioner with the approval of the Secretary, security approved by the Commissioner that he will duly make the return next thereafter required to be filed and pay the tax next thereafter required to be paid. The Commissioner may approve and accept in like manner security for return and payment of taxes made due and payable by virtue of the provisions of this subdivision, provided the taxpayer has paid in full all other income, war-profits, or excess-profits taxes due from him under any Act of Congress. If security is approved and accepted pursuant to the provisions of this subdivision and such further or other security with respect to the tax or taxes covered thereby is given as the Commissioner shall from time to time find necessary and require, payment of such taxes shall not be enforced by any proceedings under the provisions of this subdivision prior to the expiration of the time otherwise allowed for paying such respective taxes.

Commissioner's
finding as pre-
sumptive evi-
dence of design.

Security fur-
nished by tax-
payer.

SEC. 251. That every collector to whom any payment of any tax is made under the provisions of this title shall upon request give to the person making such payment a full written or printed receipt, stating the amount paid and the particular account for which such payment was made; and whenever any debtor pays taxes on account of payments made or to be made by him to separate creditors the collector shall, if requested by such debtor, give a separate receipt for the tax paid on account of each creditor in such form that the debtor can conveniently produce such receipts separately to his several creditors in satisfaction of their respective demands up to the amounts stated in the receipts; and such receipt shall be

Receipts for
taxes.

sufficient evidence in favor of such debtor to justify him in withholding from his next payment to his creditor the amount therein stated; but the creditor may, upon giving to his debtor a full written receipt acknowledging the payment to him of any sum actually paid and accepting the amount of tax paid as aforesaid (specifying the same) as a further satisfaction of the debt to that amount, require the surrender to him of such collector's receipt.

Simulation or fraudulent execution of receipts. (*United States v. Pittaro*, T. D. 2874.)

Refunds.

SEC. 252. That if, upon examination of any return of income made pursuant to this Act, the Act of August 5, 1909, entitled "An Act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," the Act of October 3, 1913, entitled "An Act to reduce tariff duties and to provide revenue for the Government, and for other purposes," the Revenue Act of 1916, as amended, or the Revenue Act of 1917, it appears that an amount of income, war-profits or excess-profits tax has been paid in excess of that properly due, then, notwithstanding the provisions of section 3228 of the Revised Statutes, the amount of the excess shall be credited against any income, war-profits or excess-profits taxes, or installment thereof, then due from the taxpayer under any other return, and any balance of such excess shall be immediately refunded to the taxpayer: *Provided*, That no such credit or refund shall be allowed or made after five years from the date when the return was due, unless before the expiration of such five years a claim therefor is filed by the taxpayer.

Procedure to be followed by collectors with respect to refund claims. (Article 1036, Regulations No. 45, amended; T. D. 2871.)

Penalties for failure to make return or supply information.

SEC. 253. That any individual, corporation, or partnership required under this title to pay or collect any tax, to make a return or to supply information, who fails to pay or collect such tax, to make such return, or to supply such information at the time or times required under this title, shall be liable to a penalty of not more than \$1,000. Any individual, corporation, or partnership, or any officer or employee of any corporation or member or employee of a partnership, who willfully refuses to pay or collect such tax, to make such return, or to supply such information at the time or times required under this title, or who willfully attempts in any manner to defeat or evade the tax imposed by this title, shall be guilty of a misdemeanor and shall be fined not more than \$10,000 or imprisoned for not more than one year, or both, together with the costs of prosecution.

Returns of payments of dividends.

SEC. 254. That every corporation subject to the tax imposed by this title and every personal service corporation shall, when required by the Commissioner, render a

correct return duly verified under oath, of its payments of dividends, stating the name and address of each stockholder, the number of shares owned by him, and the amount of dividends paid to him.

SEC. 255. That every individual, corporation, or partnership doing business as a broker shall, when required by the Commissioner, render a correct return duly verified under oath, under such rules and regulations as the Commissioner, with the approval of the Secretary, may prescribe, showing the names of customers for whom such individual, corporation, or partnership has transacted any business, with such details as to the profits, losses, or other information which the Commissioner may require, as to each of such customers, as will enable the Commissioner to determine whether all income tax due on profits or gains of such customers has been paid. Brokers' returns.

SEC. 256. That all individuals, corporations, and partnerships, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, and employers making payment to another individual, corporation, or partnership, of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income (other than payments described in sections 254 and 255), of \$1,000 or more in any taxable year, or, in the case of such payments made by the United States, the officers or employees of the United States having information as to such payments and required to make returns in regard thereto by the regulations hereinafter provided for, shall render a true and accurate return to the Commissioner, under such regulations and in such form and manner and to such extent as may be prescribed by him with the approval of the Secretary, setting forth the amount of such gains, profits, and income, and the name and address of the recipient of such payment. Information at source.

Such returns may be required, regardless of amounts, (1) in the case of payments of interest upon bonds, mortgages, deeds of trust, or other similar obligations of corporations, and (2) in the case of collections of items (not payable in the United States) of interest upon the bonds of foreign countries and interest upon the bonds of and dividends from foreign corporations by individuals, corporations, or partnerships, undertaking as a matter of business or for profit the collection of foreign payments of such interest or dividends by means of coupons, checks, or bills of exchange.

When necessary to make effective the provisions of this section the name and address of the recipient of income shall be furnished upon demand of the individual, corporation, or partnership paying the income.

The provisions of this section shall apply to the calendar year 1918 and each calendar year thereafter, but shall

not apply to the payment of interest on obligations of the United States.

Revised form of ownership certificates. (T. D. 2923.)

Returns as public records.

SEC. 257. That returns upon which the tax has been determined by the Commissioner shall constitute public records; but they shall be open to inspection only upon order of the President and under rules and regulations prescribed by the Secretary and approved by the President: *Provided*, That the proper officers of any State imposing an income tax may, upon the request of the governor thereof, have access to the returns of any corporation, or to an abstract thereof showing the name and income of the corporation, at such times and in such manner as the Secretary may prescribe: *Provided further*, That all bona fide stockholders of record owning 1 per centum or more of the outstanding stock of any corporation shall, upon making request of the Commissioner, be allowed to examine the annual income returns of such corporation and of its subsidiaries. Any stockholder who pursuant to the provisions of this section is allowed to examine the return of any corporation, and who makes known in any manner whatever not provided by law the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any such return, shall be guilty of a misdemeanor and be punished by a fine not exceeding \$1,000, or by imprisonment not exceeding one year, or both.

The Commissioner shall as soon as practicable in each year cause to be prepared and made available to public inspection in such manner as he may determine, in the office of the collector in each internal-revenue district and in such other places as he may determine, lists containing the names and the post-office addresses of all individuals making income-tax returns in such district.

Regulations governing inspection of returns. (T. D. 2961.)

Furnishing copies of returns. (T. D. 2962.)

Publication of statistics.

SEC. 258. That the Commissioner, with the approval of the Secretary, shall prepare and publish annually statistics reasonably available with respect to the operation of the income, war-profits and excess-profits-tax laws, including classifications of taxpayers and of income, the amounts allowed as deductions, exemptions, and credits, and any other facts deemed pertinent and valuable.

Collection of foreign items.

SEC. 259. That all individuals, corporations, or partnerships undertaking as a matter of business or for profit the collection of foreign payments of interest or dividends by means of coupons, checks, or bills of exchange shall obtain a license from the Commissioner and shall be subject to such regulations enabling the Government to obtain the information required under this title as the Commissioner, with the approval of the Secretary, shall prescribe; and whoever knowingly undertakes to collect

such payments without having obtained a license therefor, or without complying with such regulations, shall be guilty of a misdemeanor and shall be fined not more than \$5,000, or imprisoned for not more than one year, or both.

SEC. 260. That any individual who is a citizen of any possession of the United States (but not otherwise a citizen of the United States) and who is not a resident of the United States, shall be subject to taxation under this title only as to income derived from sources within the United States, and in such case the tax shall be computed and paid in the same manner and subject to the same conditions as in the case of other persons who are taxable only as to income derived from such sources.

SEC. 261. That in Porto Rico and the Philippine Islands the income tax shall be levied, assessed, collected, and paid in accordance with the provisions of the Revenue Act of 1916 as amended.

Returns shall be made and taxes shall be paid under Title I of such Act in Porto Rico or the Philippine Islands, as the case may be, by (1) every individual who is a citizen or resident of Porto Rico or the Philippine Islands or derives income from sources therein, and (2) every corporation created or organized in Porto Rico or the Philippine Islands or deriving income from sources therein. An individual who is neither a citizen nor a resident of Porto Rico or the Philippine Islands but derives income from sources therein, shall be taxed in Porto Rico or the Philippine Islands as a nonresident alien individual, and a corporation created or organized outside Porto Rico or the Philippine Islands and deriving income from sources therein shall be taxed in Porto Rico or the Philippine Islands as a foreign corporation. For the purposes of section 216 and of paragraph (6) of subdivision (a) of section 234 a tax imposed in Porto Rico or the Philippine Islands upon the net income of a corporation shall not be deemed to be a tax under this title.

The Porto Rican or Philippine Legislature shall have power by due enactment to amend, alter, modify, or repeal the income tax laws in force in Porto Rico or the Philippine Islands, respectively.

Citizens of
United States
possessions.

Porto Rico
and Philippine
Islands.

CHAPTER SEVENTEEN.

WAR-PROFITS AND EXCESS-PROFITS TAX.^{1, 2}

[Title III, act of February 24, 1919 (40 Stat., 1057).]

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325. Definitions; par value of stock.	327. Determination of tax in certain instances.
326. "Invested capital" defined; deductions; invested capital for period.	328. Computation of tax in certain cases; records.

PART VI.—REORGANIZATIONS.

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330. Corporations; partnerships or individuals.	331. Reorganization after March 3, 1917.

PART VII.—MISCELLANEOUS.

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335. Computation where fiscal year began in 1917; fiscal year beginning in 1918; partnership or personal service corporation with fiscal year beginning in 1917.	336. Returns required; payment of tax.
	337. Tax in case of sale of mines, etc.

TITLE III.—WAR-PROFITS AND EXCESS-PROFITS TAX.

PART I.—GENERAL DEFINITIONS.

SEC. 300. [Act of February 24, 1919 (40 Stat., 1057).] That when used in this title the terms "taxable year," "fiscal year," "personal service corporation," "paid or accrued," and "dividends" shall have the same meaning as provided for the purposes of income tax in sections 200 and 201. The first taxable year for the purposes of this title shall be the same as the first taxable year for the purposes of the income tax under Title II.

Definitions.

¹ See Regulations No. 45.
² Act of March 3, 1917 (see post, p. 845); act of October 3, 1917 (see post, p. 849).

PART II.—IMPOSITION OF TAX.

Rates of taxes.

SEC. 301. (a) That in lieu of the tax imposed by Title II of the Revenue Act of 1917, but in addition to the other taxes imposed by this Act, there shall be levied, collected, and paid for the taxable year 1918 upon the net income of every corporation a tax equal to the sum of the following:

FIRST BRACKET.

30 per centum of the amount of the net income in excess of the excess-profits credit (determined under section 312) and not in excess of 20 per centum of the invested capital;

SECOND BRACKET.

65 per centum of the amount of the net income in excess of 20 per centum of the invested capital;

THIRD BRACKET.

The sum, if any, by which 80 per centum of the amount of the net income in excess of the war-profits credit (determined under section 311) exceeds the amount of the tax computed under the first and second brackets.

Taxable year
1919 and there-
after.

(b) For the taxable year 1919 and each taxable year thereafter there shall be levied, collected, and paid upon the net income of every corporation (except corporations taxable under subdivision (c) of this section) a tax equal to the sum of the following:

FIRST BRACKET.

20 per centum of the amount of the net income in excess of the excess-profits credit (determined under section 312) and not in excess of 20 per centum of the invested capital;

SECOND BRACKET.

40 per centum of the amount of the net income in excess of 20 per centum of the invested capital.

Income from
Government con-
tracts.

(c) For the taxable year 1919 and each taxable year thereafter there shall be levied, collected, and paid upon the net income of every corporation which derives in such year a net income of more than \$10,000 from any Government contract or contracts made between April 6, 1917, and November 11, 1918, both dates inclusive, a tax equal to the sum of the following:

(1) Such a portion of a tax computed at the rates specified in subdivision (a) as the part of the net income attributable to such Government contract or contracts bears to the entire net income. In computing such tax the excess-profits credit and the war-profits credit applicable to the taxable year shall be used;

(2) Such a portion of a tax computed at the rates specified in subdivision (b) as the part of the net in-

come not attributable to such Government contract or contracts bears to the entire net income.

For the purpose of determining the part of the net income attributable to such Government contract or contracts, the proper apportionment and allocation of the deductions with respect to gross income derived from such Government contract or contracts and from other sources, respectively, shall be determined under rules and regulations prescribed by the Commissioner with the approval of the Secretary.

(d) In any case where the full amount of the excess-profit credit is not allowed under the first bracket of subdivision (a) or (b), by reason of the fact that such credit is in excess of 20 per centum of the invested capital, the part not so allowed shall be deducted from the amount in the second bracket.

Deductions.

(e) For the purposes of the Act approved March 21, 1918, entitled "An Act to provide for the operation of transportation systems while under Federal control, for the just compensation of their owners, and for other purposes," the tax imposed by this title shall be treated as levied by an Act in amendment of Title II of the Revenue Act of 1917.

Act March 21, 1918.

Exemption of Liberty bonds and Victory notes. (T. D. 2836.)

SEC. 302. That the tax imposed by subdivision (a) of section 301 shall in no case be more than 30 per centum of the amount of the net income in excess of \$3,000 and not in excess of \$20,000, plus 80 per centum of the amount of the net income in excess of \$20,000; the tax imposed by subdivision (b) of section 301 shall in no case be more than 20 per centum of the amount of the net income in excess of \$3,000 and not in excess of \$20,000, plus 40 per centum of the amount of the net income in excess of \$20,000; and the above limitations shall apply to the taxes computed under subdivisions (a) and (b) of section 301, respectively, when used in subdivision (c) of that section. Nothing in this section shall be construed in such manner as to increase the tax imposed by section 301.

Amount of tax limited.

SEC. 303. That if part of the net income of a corporation is derived (1) from a trade or business (or a branch of a trade or business) in which the employment of capital is necessary, and (2) a part (constituting not less than 30 per centum of its total net income) is derived from a separate trade or business (or a distinctly separate branch of the trade or business) which if constituting the sole trade or business would bring it within the class of "personal service corporations," then (under regulations prescribed by the Commissioner with the approval of the Secretary) the tax upon the first part of such net income shall be separately computed (allowing

Computation of tax.

in such computation only the same proportionate part of the credits authorized in sections 311 and 312), and the tax upon the second part shall be the same percentage thereof as the tax so computed upon the first part is of such first part: *Provided*, That the tax upon such second part shall in no case be less than 20 per centum thereof, unless the tax upon the entire net income, if computed without benefit of this section, would constitute less than 20 per centum of such entire net income, in which event the tax shall be determined upon the entire net income, without reference to this section, as other taxes are determined under this title. The total tax computed under this section shall be subject to the limitations provided in section 302.

Exempt cor-
porations.

SEC. 304. (a) That the corporations enumerated in section 231 shall, to the extent that they are exempt from income tax under Title II, be exempt from taxation under this title.

(b) Any corporation whose net income for the taxable year is less than \$3,000 shall be exempt from taxation under this title.

(c) In the case of any corporation engaged in the mining of gold, the portion of the net income derived from the mining of gold shall be exempt from the tax imposed by this title, and the tax on the remaining portion of the net income shall be the proportion of a tax computed without the benefit of this subdivision which such remaining portion of the net income bears to the entire net income.

Reduction of
specific exemp-
tion.

SEC. 305. That if a tax is computed under this title for a period of less than twelve months, the specific exemption of \$3,000, wherever referred to in this title, shall be reduced to an amount which is the same proportion of \$3,000 as the number of months in the period is of twelve months.

PART III.—CREDITS.

"Prewar pe-
riod" defined.

SEC. 310. That as used in this title the term "prewar period" means the calendar years 1911, 1912, and 1913, or, if a corporation was not in existence during the whole of such period, then as many of such years during the whole of which the corporation was in existence.

War-profits
credit.

SEC. 311. (a) That the war-profits credit shall consist of the sum of:

- (1) A specific exemption of \$3,000; and
- (2) An amount equal to the average net income of the corporation for the prewar period, plus or minus, as the case may be, 10 per centum of the difference between the average invested capital for the prewar period and the invested capital for the taxable year. If the tax is computed for a period of less than twelve months such amount shall be reduced to the same proportion thereof as the number of months in the period is of twelve months.

(b) If the corporation had no net income for the prewar period, or if the amount computed under paragraph (2) of the subdivision (a) is less than 10 per centum of its invested capital for the taxable year, then the war-profits credit shall be the sum of:

- (1) A specific exemption of \$3,000; and
- (2) An amount equal to 10 per centum of the invested capital for the taxable year.

(c) If the corporation was not in existence during the whole of at least one calendar year during the prewar period, then, except as provided in subdivision (d), the war-profits credit shall be the sum of:

- (1) A specific exemption of \$3,000; and
- (2) An amount equal to the same percentage of the invested capital of the taxpayer for the taxable year as the average percentage of net income to invested capital, for the prewar period, of corporations engaged in a trade or business of the same general class as that conducted by the taxpayer; but such amount shall in no case be less than 10 per centum of the invested capital of the taxpayer for the taxable year. Such average percentage shall be determined by the Commissioner on the basis of data contained in returns made under Title II of the Revenue Act of 1917, and the average known as the median shall be used. If such average percentage has not been determined and published at least 30 days prior to the time when the return of the taxpayer is due, then for purposes of such return 10 per centum shall be used in lieu thereof; but such average percentage when determined shall be used for the purposes of section 250 in determining the correct amount of the tax.

(d) The war-profits credit shall be determined in the manner provided in subdivision (b) instead of in the manner provided in subdivision (c), in the case of any corporation which was not in existence during the whole of at least one calendar year during the prewar period, if (1) a majority of its stock at any time during the taxable year is owned or controlled, directly or indirectly, by a corporation which was in existence during the whole of at least one calendar year during the prewar period, or if (2) 50 per centum or more of its gross income (as computed under section 233 for income tax purposes) consists of gains, profits, commissions, or other income, derived from a government contract or contracts made between April 6, 1917, and November 11, 1918, both dates inclusive.

(e) A foreign corporation shall not be entitled to a specific exemption of \$3,000.

Exemption of
foreign corpora-
tion.

SEC. 312. That the excess-profits credit shall consist of a specific exemption of \$3,000 plus an amount equal to 8 per centum of the invested capital for the taxable year.

Excess-profits
credit.

A foreign corporation shall not be entitled to the specific exemption of \$3,000.

PART IV.—NET INCOME.

SEC. 320. (a) That for the purpose of this title the net income of a corporation shall be ascertained and returned—

Ascertaining
and returning of
net income.

(1) For the calendar years 1911 and 1912 upon the same basis and in the same manner as provided in section 38 of the Act entitled "An Act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August 5, 1909, except that taxes imposed by such section and paid by the corporation within the year shall be included;

(2) For the calendar year 1913 upon the same basis and in the same manner as provided in Section II of the Act entitled "An Act to reduce tariff duties and to provide revenue for the Government, and for other purposes," approved October 3, 1913, except that taxes imposed by section 38 of such Act of August 5, 1909, and paid by the corporation within the year shall be included, and except that the amounts received by it as dividends upon the stock or from the net earnings of other corporations subject to the tax imposed by Section II of such Act of October 3, 1913, shall be deducted; and

(3) For the taxable year upon the same basis and in the same manner as provided for income tax purposes in Title II of this Act.

Average net
income.

(b) The average net income for the prewar period shall be determined by dividing the number of years within that period during the whole of which the corporation was in existence into the sum of the net income for such years, even though there may have been no net income for one or more of such years.

PART V.—INVESTED CAPITAL.

Definitions.

SEC. 325. (a) That as used in this title—

The term "intangible property" means patents, copyrights, secret processes and formulæ, good will, trademarks, trade-brands, franchises, and other like property;

The term "tangible property" means stocks, bonds, notes, and other evidences of indebtedness, bills and accounts receivable, leaseholds, and other property other than intangible property;

The term "borrowed capital" means money or other property borrowed, whether represented by bonds, notes, open accounts, or otherwise;

The term "inadmissible assets" means stocks, bonds, and other obligations (other than obligations of the United States), the dividends or interest from which is not included in computing net income, but where the income derived from such assets consists in part of gain or profit derived from the sale or other disposition thereof, or where all or part of the interest derived from

such assets is in effect included in the net income because of the limitation on the deduction of interest under paragraph (2) of subdivision (a) of section 234, a corresponding part of the capital invested in such assets shall not be deemed to be inadmissible assets;

The term "admissible assets" means all assets other than inadmissible assets, valued in accordance with the provisions of subdivision (a) of section 326, section 330, and section 331.

(b) For the purposes of this title, the par value of stock or shares shall, in the case of stock or shares issued at a nominal value or having no par value, be deemed to be the fair market value as of the date or dates of issue of such stock or shares. Par value of stock, etc.

SEC. 326 (a) That as used in this title the term "invested capital" for any year means (except as provided in subdivisions (b) and (c) of this section): "Invested capital" defined.

(1) Actual cash bona fide paid in for stock or shares;

(2) Actual cash value of tangible property, other than cash, bona fide paid in for stock or shares, at the time of such payment, but in no case to exceed the par value of the original stock or shares specifically issued therefor, unless the actual cash value of such tangible property at the time paid in is shown to the satisfaction of the Commissioner to have been clearly and substantially in excess of such par value, in which case such excess shall be treated as paid-in surplus: *Provided*, That the Commissioner shall keep a record of all cases in which tangible property is included in invested capital at a value in excess of the stock or shares issued therefor, containing the name and address of each taxpayer, the business in which engaged, the amount of invested capital and net income shown by the return, the value of the tangible property at the time paid in, the par value of the stock or shares specifically issued therefor, and the amount included under this paragraph as paid-in surplus. The Commissioner shall furnish a copy of such record and other detailed information with respect to such cases when required by resolution of either House of Congress, without regard to the restrictions contained in section 257;

(3) Paid-in or earned surplus and undivided profits; not including surplus and undivided profits earned during the year;

(4) Intangible property bona fide paid in for stock or shares prior to March 3, 1917, in an amount not exceeding (a) the actual cash value of such property at the time paid in, (b) the par value of the stock or shares issued therefor, or (c) in the aggregate 25 per centum of the par value of the total stock or shares of the corporation outstanding on March 3, 1917, whichever is lowest;

(5) Intangible property bona fide paid in for stock or shares on or after March 3, 1917, in an amount not exceed-

ing (a) the actual cash value of such property at the time paid in, (b) the par value of the stock or shares issued therefor, or (c) in the aggregate 25 per centum of the par value of the total stock or shares of the corporation outstanding at the beginning of the taxable year, whichever is lowest: *Provided*, That in no case shall the total amount included under paragraphs (4) and (5) exceed in the aggregate 25 per centum of the par value of the total stock or shares of the corporation outstanding at the beginning of the taxable year; but

(b) As used in this title the term "invested capital" does not include borrowed capital.

Deductions.

(c) There shall be deducted from invested capital as above defined a percentage thereof equal to the percentage which the amount of inadmissible assets is of the amount of admissible and inadmissible assets held during the taxable year.

Invested capital for period.

(d) The invested capital for any period shall be the average invested capital for such period, but in the case of a corporation making a return for a fractional part of a year, it shall (except for the purpose of paragraph (2) of subdivision (a) of section 311) be the same fractional part of such average invested capital.

The average invested capital for the prewar period shall be determined by dividing the number of years within that period during the whole of which the corporation was in existence into the sum of the average invested capital for such years.

Regulations No. 45, amended by inserting new paragraph (845 (a)), headed, "Surplus and undivided profits; reserve for 1918 income and excess profits taxes of corporations having a fiscal year." (T. D. 2931.)

Determination of tax in certain instances.

SEC. 327. That in the following cases the tax shall be determined as provided in section 328:

(a) Where the Commissioner is unable to determine the invested capital as provided in section 326;

(b) In the case of a foreign corporation;

(c) Where a mixed aggregate of tangible property and intangible property has been paid in for stock or for stock and bonds and the Commissioner is unable satisfactorily to determine the respective values of the several classes of property at the time of payment, or to distinguish the classes of property paid in for stock and for bonds, respectively;

(d) Where upon application by the corporation the Commissioner finds and so declares of record that the tax if determined without benefit of this section would, owing to abnormal conditions affecting the capital or income of the corporation, work upon the corporation an exceptional hardship evidenced by gross disproportion between the tax computed without benefit of this section and the tax computed by reference to the representative corporations specified in section 328. This subdivision shall not apply to any case (1) in which the tax

(computed without benefit of this section) is high merely because the corporation earned within the taxable year a high rate of profit upon a normal invested capital; nor (2) in which 50 per centum or more of the gross income of the corporation for the taxable year (computed under section 233 of Title II) consists of gains, profits, commissions, or other income, derived on a cost-plus basis from a Government contract or contracts made between April 6, 1917, and November 11, 1918, both dates inclusive.

SEC. 328. (a) In the cases specified in section 327 the tax shall be the amount which bears the same ratio to the net income of the taxpayer (in excess of the specific exemption of \$3,000) for the taxable year, as the average tax of representative corporations engaged in a like or similar trade or business, bears to their average net income (in excess of the specific exemption of \$3,000) for such year. In the case of a foreign corporation the tax shall be computed without deducting the specific exemption of \$3,000 either for the taxpayer or the representative corporations.

Computation of
tax in certain
cases.

In computing the tax under this section the Commissioner shall compare the taxpayer only with representative corporations whose invested capital can be satisfactorily determined under section 326 and which are, as nearly as may be, similarly circumstanced with respect to gross income, net income, profits per unit of business transacted and capital employed, the amount and rate of war profits or excess profits, and all other relevant facts and circumstances.

(b) For the purposes of subdivision (a) the ratios between the average tax and the average net income of representative corporations shall be determined by the Commissioner in accordance with regulations prescribed by him with the approval of the Secretary.

In cases in which the tax is to be computed under this section, if the tax as computed without the benefit of this section is less than 50 per centum of the net income of the taxpayer, the installments shall in the first instance be computed upon the basis of such tax; but if the tax so computed is 50 per centum or more of the net income, the installments shall in the first instance be computed upon the basis of a tax equal to 50 per centum of the net income. In any case, the actual ratio when ascertained shall be used in determining the correct amount of the tax. If the correct amount of the tax when determined exceeds 50 per centum of the net income, any excess of the correct installments over the amounts actually paid shall on notice and demand be paid together with interest at the rate of $\frac{1}{2}$ of 1 per centum per month on such excess from the time the installment was due.

(c) The Commissioner shall keep a record of all cases in which the tax is determined in the manner prescribed in subdivision (a), containing the name and address of

Records.

each taxpayer, the business in which engaged, the amount of invested capital and net income shown by the return, and the amount of invested capital as determined under such subdivision. The Commissioner shall furnish a copy of such record and other detailed information with respect to such cases when required by resolution of either House of Congress, without regard to the restrictions contained in section 257.

PART VI.—REORGANIZATIONS.

Corporations.

SEC. 330. That in the case of the reorganization, consolidation, or change of ownership after January 1, 1911, of a trade or business now carried on by a corporation, the corporation shall for the purposes of this title be deemed to have been in existence prior to that date, and the net income and invested capital of such predecessor trade or business for all or any part of the prewar period prior to the organization of the corporation now carrying on such trade or business shall be deemed to have been the net income and invested capital of such corporation.

Partnerships or individuals.

If such predecessor trade or business was carried on by a partnership or individual the net income for the prewar period shall, under regulations prescribed by the Commissioner with the approval of the Secretary, be ascertained and returned as nearly as may be upon the same basis and in the same manner as provided for corporations in Title II, including a reasonable deduction for salary or compensation to each partner or the individual for personal services actually rendered.

Corporations.

In the case of the organization as a corporation before July 1, 1919, of any trade or business in which capital is a material income-producing factor and which was previously owned by a partnership or individual, the net income of such trade or business from January 1, 1918, to the date of such reorganization may at the option of the individual or partnership be taxed as the net income of a corporation is taxed under Titles II and III; in which event the net income and invested capital of such trade or business shall be computed as if such corporation had been in existence on and after January 1, 1918, and the undistributed profits or earnings of such trade or business shall not be subject to the surtax imposed in section 211, but amounts distributed on or after January 1, 1918, from the earnings of such trade or business shall be taxed to the recipients as dividends, and all the provisions of Titles II and III relating to corporations shall so far as practicable apply to such trade or business: *Provided*, That this paragraph shall not apply to any trade or business the net income of which for the taxable year 1918 was less than 20 per centum of its invested capital for such year: *Provided further*, That any taxpayer who takes advantage of this paragraph shall pay the tax imposed by section 1000 of this Act and by the first sub-

division of section 407 of the Revenue Act of 1918, as if such taxpayer had been a corporation on and after January 1, 1918, with a capital stock having no par value.

If any asset of the trade or business in existence both during the taxable year and any prewar year is included in the invested capital for the taxable year but is not included in the invested capital for such prewar year, or is valued on a different basis in computing the invested capital for the taxable year and such prewar year, respectively, then under rules and regulations to be prescribed by the Commissioner with the approval of the Secretary such readjustments shall be made as are necessary to place the computation of the invested capital for such prewar year on the basis employed in determining the invested capital for the taxable year.

SEC. 331. In the case of the reorganization, consolidation, or change of ownership of a trade or business, or change of ownership of property, after March 3, 1917, if an interest or control in such trade or business or property of 50 per centum or more remains in the same persons, or any of them, then no asset transferred or received from the previous owner shall, for the purpose of determining invested capital, be allowed a greater value than would have been allowed under this title in computing the invested capital of such previous owner if such asset had not been so transferred or received: *Provided*, That if such previous owner was not a corporation, then the value of any asset so transferred or received shall be taken at its cost of acquisition (at the date when acquired by such previous owner with proper allowance for depreciation, impairment, betterment or development, but no addition to the original cost shall be made for any charge or expenditure deducted as expense or otherwise on or after March 1, 1918, in computing the net income of such previous owner for purposes of taxation.

Reorganization
after March 3,
1917.

PART VII.—MISCELLANEOUS.

SEC. 335. (a) That if a corporation (other than a personal service corporation) makes return for a fiscal year beginning in 1917 and ending in 1918, the tax for the first taxable year under this title shall be the sum of: (1) the same proportion of a tax for the entire period computed under Title II of the Revenue Act of 1917 which the portion of such period falling within the calendar year 1917 is of the entire period, and (2) the same proportion of a tax for the entire period computed under this title at the rates specified in subdivision (a) of section 301 which the portion of such period falling within the calendar year 1918 is of the entire period. Any amount heretofore or hereafter paid on account of the tax imposed for such fiscal year by Title II of the Revenue Act of 1917 shall be credited toward the payment of the tax imposed for such fiscal year by this title, and if the amount so paid exceeds the amount of the tax imposed by this title, the excess shall be credited or re-

Computation
where fiscal year
began in 1917.

funded to the corporation in accordance with the provisions of section 252.

Computation where fiscal year began in 1918.

(b) If a corporation makes return for a fiscal year beginning in 1918 and ending in 1919, the tax for such fiscal year under this title shall be the sum of: (1) the same proportion of a tax for the entire period computed under subdivision (a) of section 301 which the portion of such period falling within the calendar year 1918 is of the entire period, and (2) the same proportion of a tax for the entire period computed under subdivision (b) or (c) of section 301 which the portion of such period falling within the calendar year 1919 is of the entire period.

Partnership or personal service corporation with fiscal year beginning in 1917.

(c) If a partnership or a personal service corporation makes return for a fiscal year beginning in 1917 and ending in 1918, it shall pay the same proportion of a tax for the entire period computed under Title II of the Revenue Act of 1917 which the portion of such period falling within the calendar year 1917 is of the entire period.

Fiscal year beginning after January 1, 1918.

Any tax paid by a partnership or personal service corporation for any period beginning on or after January 1, 1918, shall be immediately refunded to the partnership or corporation as a tax erroneously or illegally collected.

Returns required.

SEC. 336. That every corporation, not exempt under section 304, shall make a return for the purposes of this title. Such returns shall be made, and the taxes imposed by this title shall be paid, at the same times and places, in the same manner, and subject to the same conditions, as is provided in the case of returns and payment of income tax by corporations for the purposes of Title II, and all the provisions of that title not inapplicable, including penalties, are hereby made applicable to the taxes imposed by this title.

Payment of tax.

Acceptance of certificates of indebtedness in payment of taxes due June 16, 1919. (T. D. 2850.)

Amended returns accepted so that taxable year of affiliated corporations will coincide. (T. D. 2805.)

Acceptance of certificates of indebtedness in payment of taxes due September 15, 1919, and December 15, 1919; articles 1731 and 1732, Regulations No. 45, supplemented. (T. D. 2907.)

Regulations governing inspection of returns. (T. D. 2961.)

Furnishing copies of returns. (T. D. 2962.)

Tax in case of sale of mines, etc.

SEC. 337. That in the case of a bona fide sale of mines, oil or gas wells, or any interest therein, where the principal value of the property has been demonstrated by prospecting or exploration and discovery work done by the taxpayer, the portion of the tax imposed by this title attributable to such sale shall not exceed 20 per centum of the selling price of such property or interest.

Procedure to be followed by collectors with respect to claims for refund or abatement; article 1036, Regulations 45, amended. (T. D. 2871.)

CHAPTER EIGHTEEN.

ESTATE TAX.^{1, 2}

[Title IV, act of February 24, 1919 (40 Stat., 1057).]

Sec.	Sec.
400. Definitions.	406. Due date of tax; extension of time for payment; interest in case of delinquency.
401. Taxing percentages based on value of net estate.	407. Payment of tax; refund of excess; interest; receipts.
402. Determination of value of gross estate.	408. Proceedings to compel payment of tax; reimbursement.
403. Determination of value of net estate.	409. Lien of tax; liability of trustee or transferee; rights of bona fide purchasers.
404. Notice to collector that executor has qualified or taken possession; return by executor; assessment by Commissioner.	410. False statement in notice or return; failure to make disclosure of information.
405. Return by collector in certain cases.	

[Act of April 4, 1918 (40 Stat., 502, 505).]

6. Acceptance of Liberty bonds in payment of tax.

TITLE IV.—ESTATE TAX.

SEC. 400. [Act of February 24, 1919 (40 Stat., 1057).]
That when used in this title—

The term “executor” means the executor or administrator of the decedent, or, if there is no executor or administrator, any person who takes possession of any property of the decedent; and

Definitions.

The term “collector” means the collector of internal revenue of the district in which was the domicile of the decedent at the time of his death, or, if there was no such domicile in the United States, then the collector of the district in which is situated the part of the gross estate of the decedent in the United States, or, if such part of the gross estate is situated in more than one district, then the collector of internal revenue of such district as may be designated by the Commissioner.

SEC. 401. That (in lieu of the tax imposed by Title II of the Revenue Act of 1916, as amended, and in lieu of the tax imposed by Title IX of the Revenue Act of 1917) a tax equal to the sum of the following percentages of the value of the net estate (determined as provided in section 403) is hereby imposed upon the transfer of the net estate of every decedent dying after the passage of this Act, whether a resident or nonresident of the United States:

Taxing percentages based on value of net estate.

1 per centum of the amount of the net estate not in excess of \$50,000;

¹ See Regulations No. 37, revised.

² Act of September 8, 1916 (see post, p. 793); act of March 3, 1917 (see post, p. 845); act of October 3, 1917 (see post, p. 849).

2 per centum of the amount by which the net estate exceeds \$50,000 and does not exceed \$150,000;

3 per centum of the amount by which the net estate exceeds \$150,000 and does not exceed \$250,000;

4 per centum of the amount by which the net estate exceeds \$250,000 and does not exceed \$450,000;

6 per centum of the amount by which the net estate exceeds \$450,000 and does not exceed \$750,000;

8 per centum of the amount by which the net estate exceeds \$750,000 and does not exceed \$1,000,000;

10 per centum of the amount by which the net estate exceeds \$1,000,000 and does not exceed \$1,500,000;

12 per centum of the amount by which the net estate exceeds \$1,500,000 and does not exceed \$2,000,000;

14 per centum of the amount by which the net estate exceeds \$2,000,000 and does not exceed \$3,000,000;

16 per centum of the amount by which the net estate exceeds \$3,000,000 and does not exceed \$4,000,000;

18 per centum of the amount by which the net estate exceeds \$4,000,000 and does not exceed \$5,000,000;

20 per centum of the amount by which the net estate exceeds \$5,000,000 and does not exceed \$8,000,000;

22 per centum of the amount by which the net estate exceeds \$8,000,000 and does not exceed \$10,000,000; and

25 per centum of the amount by which the net estate exceeds \$10,000,000.

Persons serving in military or naval forces.

Determination of value of gross estate.

The taxes imposed by this title or by Title II of the Revenue Act of 1916 (as amended by the Act entitled "An Act to provide increased revenue to defray the expenses of the increased appropriations for the Army and Navy and the extensions of fortifications, and for other purposes," approved March 3, 1917) or by Title IX of the Revenue Act of 1917, shall not apply to the transfer of the net estate of any decedent who has died or may die while serving in the military or naval forces of the United States in the present war or from injuries received or disease contracted while in such service, and any such tax collected upon such transfer shall be refunded to the executor.

Sec. 402. That the value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated—

(a) To the extent of the interest therein of the decedent at the time of his death which after his death is subject to the payment of the charges against his estate and the expenses of its administration and is subject to distribution as part of his estate;

(b) To the extent of any interest therein of the surviving spouse, existing at the time of the decedent's death as dower, courtesy, or by virtue of a statute creating an estate in lieu of dower or courtesy;

(c) To the extent of any interest therein of which the decedent has at any time made a transfer, or with respect

to which he has at any time created a trust, in contemplation of or intended to take effect in possession or enjoyment at or after his death (whether such transfer or trust is made or created before or after the passage of this Act), except in case of a bona fide sale for a fair consideration in money or money's worth. Any transfer of a material part of his property in the nature of a final disposition or distribution thereof, made by the decedent within two years prior to his death without such a consideration, shall, unless shown to the contrary, be deemed to have been made in contemplation of death within the meaning of this title;

(d) To the extent of the interest therein held jointly or as tenants in the entirety by the decedent and any other person, or deposited in banks or other institutions in their joint names and payable to either or the survivor, except such part thereof as may be shown to have originally belonged to such other person and never to have belonged to the decedent;

(e) To the extent of any property passing under a general power of appointment exercised by the decedent (1) by will, or (2) by deed executed in contemplation of, or intended to take effect in possession or enjoyment at or after, his death, except in case of a bona fide sale for a fair consideration in money or money's worth; and

(f) To the extent of the amount receivable by the executor as insurance under policies taken out by the decedent upon his own life; and to the extent of the excess over \$40,000 of the amount receivable by all other beneficiaries as insurance under policies taken out by the decedent upon his own life.

SEC. 403. That for the purpose of the tax the value of the net estate shall be determined—

Determination
of value of net
estate.

(a) In the case of a resident, by deducting from the value of the gross estate—

(1) Such amounts for funeral expenses, administration expenses, claims against the estate, unpaid mortgages, losses incurred during the settlement of the estate arising from fires, storms, shipwreck, or other casualty, or from theft, when such losses are not compensated for by insurance or otherwise, and such amounts reasonably required and actually expended for the support during the settlement of the estate of those dependent upon the decedent, as are allowed by the laws of the jurisdiction, whether within or without the United States, under which the estate is being administered, but not including any income taxes upon income received after the death of the decedent, or any estate, succession, legacy, or inheritance taxes;

(2) An amount equal to the value at the time of the decedent's death of any property, real, personal, or mixed, which can be identified as having been received by the decedent as a share in the estate of any person who died

within five years prior to the death of the decedent, or which can be identified as having been acquired by the decedent in exchange for property so received, if an estate tax under the Revenue Act of 1917 or under this Act was collected from such estate, and if such property is included in the decedent's gross estate;

(3) The amount of all bequests, legacies, devises, or gifts, to or for the use of the United States, any State, Territory, any political subdivision thereof, or the District of Columbia, for exclusively public purposes, or to or for the use of any corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, or to a trustee or trustees exclusively for such religious, charitable, scientific, literary, or educational purposes. This deduction shall be made in case of the estates of all decedents who have died since December 31, 1917; and

(4) An exemption of \$50,000;

(b) In the case of a nonresident, by deducting from the value of that part of his gross estate which at the time of his death is situated in the United States—

(1) That proportion of the deductions specified in paragraph (1) of subdivision (a) of this section which the value of such part bears to the value of his entire gross estate, wherever situated, but in no case shall the amount so deducted exceed 10 per centum of the value of that part of his gross estate which at the time of his death is situated in the United States;

(2) An amount equal to the value at the time of the decedent's death of any property, real, personal, or mixed, which can be identified as having been received by the decedent as a share in the estate of any person who died within five years prior to the death of the decedent, or which can be identified as having been acquired by the decedent in exchange for property so received, if an estate tax under the Revenue Act of 1917 or under this Act was collected from such estate, and if such property is included in that part of the decedent's gross estate which at the time of his death is situated in the United States; and

(3) The amount of all bequests, legacies, devises, or gifts, to or for the use of the United States, any State, Territory, any political subdivision thereof, or the District of Columbia, for exclusively public purposes, or to or for the use of any domestic corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, or

to a trustee or trustees exclusively for such religious, charitable, scientific, literary, or educational purposes within the United States. This deduction shall be made in case of the estates of all decedents who have died since December 31, 1917; and

No deduction shall be allowed in the case of a nonresident unless the executor includes in the return required to be filed under section 404 the value at the time of his death of that part of the gross estate of the nonresident not situated in the United States.

For the purpose of this title stock in a domestic corporation owned and held by a nonresident decedent, and the amount receivable as insurance upon the life of a nonresident decedent where the insurer is a domestic corporation, shall be deemed property within the United States, and any property of which the decedent has made a transfer or with respect to which he has created a trust, within the meaning of subdivision (c) of section 402, shall be deemed to be situated in the United States, if so situated either at the time of the transfer or the creation of the trust, or at the time of the decedent's death.

In the case of any estate in respect to which the tax under existing law has been paid, if necessary to allow the benefit of the deduction under paragraph (3) of subdivision (a) or (b) the tax shall be redetermined and any excess of tax paid shall be refunded to the executor.

SEC. 404. That the executor, within sixty days after qualifying as such, or after coming into possession of any property of the decedent, whichever event first occurs, shall give written notice thereof to the collector. The executor shall also, at such times and in such manner as may be required by regulations made pursuant to law, file with the collector a return under oath in duplicate, setting forth (a) the value of the gross estate of the decedent at the time of his death, or, in case of a nonresident, of that part of his gross estate situated in the United States; (b) the deductions allowed under section 403; (c) the value of the net estate of the decedent as defined in section 403; and (d) the tax paid or payable thereon; or such part of such information as may at the time be ascertainable and such supplemental data as may be necessary to establish the correct tax.

Return shall be made in all cases where the gross estate at the death of the decedent exceeds \$50,000, and in the case of the estate of every nonresident any part of whose gross estate is situated in the United States. If the executor is unable to make a complete return as to any part of the gross estate of the decedent, he shall include in his return a description of such part and the name of every person holding a legal or beneficial interest therein, and upon notice from the collector such person shall in like manner make a return as to such part of the gross

Notice to collector that executor has qualified or taken possession.

Return by executor.

Assessment by Commissioner.	estate. The Commissioner shall make all assessments of the tax under the authority of existing administrative special and general provisions of law relating to the assessment and collection of taxes.
Return by collector in certain cases.	SEC. 405. That if no administration is granted upon the estate of a decedent, or if no return is filed as provided in section 404, or if a return contains a false or incorrect statement of a material fact, the collector or deputy collector shall make a return and the Commissioner shall assess the tax thereon.
Due date of tax.	SEC. 406. That the tax shall be due one year after the decedent's death; but in any case where the Commissioner finds that payment of the tax within one year after the decedent's death would impose undue hardship upon the estate, he may grant an extension of time for the payment of the tax for a period not to exceed three years from the due date. If the tax is not paid within one year and 180 days after the decedent's death, interest at the rate of 6 per centum per annum from the expiration of one year after the decedent's death shall be added as part of the tax.
Extension of time for payment.	
Interest in case of delinquency.	
Payment of tax.	SEC. 407. That the executor shall pay the tax to the collector or deputy collector. If the amount of the tax can not be determined, the payment of a sum of money sufficient, in the opinion of the collector, to discharge the tax shall be deemed payment in full of the tax, except as in this section otherwise provided. If the amount so paid exceeds the amount of the tax as finally determined, the Commissioner shall refund such excess to the executor. If the amount of the tax as finally determined exceeds the amount so paid, the collector shall notify the executor of the amount of such excess and demand payment thereof. If such excess part of the tax is not paid within thirty days after such notification, interest shall be added thereto at the rate of 10 per centum per annum from the expiration of such thirty days' period until paid, and the amount of such excess shall be a lien upon the entire gross estate, except such part thereof as may have been sold to a bona fide purchaser for a fair consideration in money or money's worth.
Refund of excess.	
Interest.	
Receipts.	The collector shall grant to the person paying the tax duplicate receipts, either of which shall be sufficient evidence of such payment, and shall entitle the executor to be credited and allowed the amount thereof by any court having jurisdiction to audit or settle his accounts.
Proceedings to compel payment of tax.	SEC. 408. That if the tax herein imposed is not paid within 180 days after it is due, the collector shall, unless there is reasonable cause for further delay, proceed to collect the tax under the provisions of general law, or commence appropriate proceedings in any court of the United States, in the name of the United States, to sub-

Receipt of Liberty bonds and Victory notes in payment of tax. (T. Da. 2905, 2904, 2908, 2878, 2802, 2705.)

ject the property of the decedent to be sold under the judgment or decree of the court. From the proceeds of such sale the amount of the tax, together with the costs and expenses of every description to be allowed by the court, shall be first paid, and the balance shall be deposited according to the order of the court, to be paid under its direction to the person entitled thereto.

If the tax or any part thereof is paid by, or collected out of that part of the estate passing to or in the possession of, any person other than the executor in his capacity as such, such person shall be entitled to reimbursement out of any part of the estate still undistributed or by a just and equitable contribution by the persons whose interest in the estate of the decedent would have been reduced if the tax had been paid before the distribution of the estate or whose interest is subject to equal or prior liability for the payment of taxes, debts, or other charges against the estate, it being the purpose and intent of this title that so far as is practicable and unless otherwise directed by the will of the decedent the tax shall be paid out of the estate before its distribution. If any part of the gross estate consists of proceeds of policies of insurance upon the life of the decedent receivable by a beneficiary other than the executor, the executor shall be entitled to recover from such beneficiary such portion of the total tax paid as the proceeds, in excess of \$40,000, of such policies bear to the net estate. If there is more than one such beneficiary the executor shall be entitled to recover from such beneficiaries in the same ratio.

Reimbursement.

Sec. 409. That unless the tax is sooner paid in full, it shall be a lien for ten years upon the gross estate of the decedent, except that such part of the gross estate as is used for the payment of charges against the estate and expenses of its administration, allowed by any court having jurisdiction thereof, shall be divested of such lien. If the Commissioner is satisfied that the tax liability of an estate has been fully discharged or provided for, he may, under regulations prescribed by him with the approval of the Secretary, issue his certificate releasing any or all property of such estate from the lien herein imposed.

Lien of tax.

If (a) the decedent makes a transfer of, or creates a trust with respect to, any property in contemplation of or intended to take effect in possession or enjoyment at or after his death (except in the case of a bona fide sale for a fair consideration in money or money's worth) or (b) if insurance passes under a contract executed by the decedent in favor of a specific beneficiary, and if in either case the tax in respect thereto is not paid when due, then the transferee, trustee, or beneficiary shall be personally liable for such tax, and such property, to the extent of the decedent's interest therein at the time of such transfer, or to the extent of such beneficiary's interest under such contract of insurance, shall be subject to a like lien equal to

Liability of transferee or trustee.

Rights of bona
fide purchasers.

the amount of such tax. Any part of such property sold by such transferee or trustee to a bona fide purchaser for a fair consideration in money or money's worth shall be divested of the lien and a like lien shall then attach to all the property of such transferee or trustee, except any part sold to a bona fide purchaser for a fair consideration in money or money's worth.

False state-
ment in notice
or return.

SEC. 410. That whoever knowingly makes any false statement in any notice or return required to be filed under this title shall be liable to a penalty of not exceeding \$5,000, or imprisonment not exceeding one year, or both.

Failure to
make disclosure
of information.

Whoever fails to comply with any duty imposed upon him by section 404, or, having in his possession or control any record, file, or paper, containing or supposed to contain any information concerning the estate of the decedent, or, having in his possession or control any property comprised in the gross estate of the decedent, fails to exhibit the same upon request to the Commissioner or any collector or law officer of the United States, or his duly authorized deputy or agent, who desires to examine the same in the performance of his duties under this title, shall be liable to a penalty of not exceeding \$500, to be recovered, with costs of suit, in a civil action in the name of the United States.

Acceptance of
Liberty bonds in
payment of tax.

SEC. 6. [*Act of April 4, 1918 (40 Stat., 502, 505), amending act of September 24, 1917 (40 Stat., 288).*] That any bonds of the United States bearing interest at a higher rate than four per centum per annum (whether issued under section one of this Act or upon conversion of bonds issued under this Act or under said Act approved April twenty-fourth, nineteen hundred and seventeen), which have been owned by any person continuously for at least six months prior to the date of his death, and which upon such date constitute part of his estate, shall, under rules and regulations prescribed by the Secretary of the Treasury, be receivable by the United States at par and accrued interest in payment of any estate or inheritance taxes imposed by the United States, under or by virtue of any present or future law upon such estate or the inheritance thereof.

Regulations relating to receipt of Liberty bonds for estate taxes. (T. D. 2802.)

United States bonds bearing interest at a higher rate than 4 per cent to be accepted at par and accrued interest in payment of estate tax. (T. D. 2705.)

CHAPTER NINETEEN.

TAX ON TRANSPORTATION AND OTHER FACILITIES.^{1, 2}

[Title V, act of February 24, 1919 (40 Stat., 1057).]

Sec.
500. Rates of tax on freight, passenger, express, and oil transportation, and on telegraph, etc., messages.
501. Tax payable by whom; purchase of mileage books or payment of cash fare before November 1, 1917; ticket bought and partially used before November 1, 1917; agency rendering services.

Sec.
502. Collection of tax; monthly returns; refunds; time of payment; penalty.

TITLE V.—TAX ON TRANSPORTATION AND OTHER FACILITIES.

SEC. 500. [*Act of February 24, 1919 (40 Stat. 1057).*] That from and after April 1, 1919, there shall be levied, assessed, collected, and paid, in lieu of the taxes imposed by section 500 of the Revenue Act of 1917—

(a) A tax equivalent to 3 per centum of the amount paid for the transportation on or after such date, by rail or water or by any form of mechanical motor power when in competition with carriers by rail or water, or property by freight transported from one point in the United States to another; and a like tax on the amount paid for such transportation within the United States of property transported from a point without the United States to a point within the United States; Rates of tax—
freight transportation.

In-transit privileges and property exported; articles 13 and 15, Regulations No. 49, as amended by T. D. 2889, further amended. (T. Ds. 2917, 2928.)

Article 21, Regulations No. 49, relating to temporary exemption certificates, amended. (T. D. 2978.)

(b) A tax of 1 cent for each 20 cents or fraction thereof of the amount paid to any person for the transportation on or after such date, by rail or water or by any form of mechanical motor power when in competition with express by rail or water, of any package, parcel, or shipment, by express, transported from one point in the United States to another; and a like tax on the amount paid for such transportation within the United States of property transported from a point without the United States to a point within the United States; Express transportation.

(c) A tax equivalent to 8 per centum of the amount paid for the transportation on or after such date of persons by rail or water, or by any form of mechanical Passenger transportation.

¹ See Regulations No. 49.

² Act of October 3, 1917, post, page 849.

motor power on a regular established line when in competition with carriers by rail or water from one point in the United States to another or to any point in Canada or Mexico, where the ticket or order therefor is sold or issued in the United States, not including the amount paid for commutation or season tickets for trips less than thirty miles, or for transportation the fare for which does not exceed 42 cents: *Provided*, That where such water transportation lines are in competition between American ports with foreign water transportation lines from adjacent foreign ports, the tax imposed under this subdivision on amounts paid for water transportation between American ports shall not exceed the amount of the transportation tax to which such foreign water transportation lines are subjected by their government corresponding to this tax;

Seats, berths,
etc., in parlor
cars, etc.

(d) A tax equivalent to 8 per centum of the amount paid for seats, berths, and staterooms in parlor cars, sleeping cars, or on vessels, used on or after such date in connection with transportation upon which tax is imposed by subdivision (c);

Transportation
of oil by pipe
line.

(e) A tax equivalent to 8 per centum of the amount paid for the transportation on or after such date of oil by pipe line;

Telegraph, tele-
phone, etc., mes-
sages.

(f) In the case of each telegraph, telephone, cable, or radio, dispatch, message, or conversation, which originates on or after such date within the United States, and for the transmission of which the charge is more than 14 cents and not more than 50 cents, a tax of 5 cents; and if the charge is more than 50 cents, a tax of 10 cents: *Provided*, That only one payment of such tax shall be required, notwithstanding the lines or stations of one or more persons are used for the transmission of such dispatch, message, or conversation; and

Leased wire,
etc., service.

(g) A tax equivalent to 10 per centum of the amount paid after such date to any telegraph or telephone company for any leased wire or talking circuit special service furnished after such date. This subdivision shall not apply to the amount paid for so much of such service as is utilized (1) in the collection and dissemination of news through the public press, or (2) in the conduct, by a common carrier or telegraph or telephone company, of its business as such;

Exemptions.

(h) No tax shall be imposed under this section upon any payment received for services rendered to the United States or to any State or Territory or the District of Columbia. The right to exemption under this subdivision shall be evidenced in such manner as the Commissioner, with the approval of the Secretary, may by regulation prescribe.

Tax payable
by whom.

SEC. 501. (a) That the taxes imposed by section 500 shall be paid by the person paying for the services or facilities rendered.

(b) If a mileage book used for transportation or accommodation was purchased before November 1, 1917, or if cash fare is paid, the tax imposed by section 500 shall be collected from the person presenting the mileage book, or paying the cash fare, by the conductor or other agent, when presented for such transportation or accommodation, and the amount so collected shall be paid to the United States in such manner and at such times as the Commissioner, with the approval of the Secretary, may prescribe; if a ticket (other than a mileage book) was bought and partially used before November 1, 1917, it shall not be taxed, but if bought but not so used before section 500 takes effect, it shall not be valid for passage until the tax has been paid and such payment evidenced on the ticket in such manner as the Commissioner, with the approval of the Secretary, may by regulation prescribe.

Purchase of mileage book or payment of cash fare before November 1, 1917.

Tickets bought and partially used before November 1, 1917.

(c) The taxes imposed by section 500 shall apply to all services or facilities specified in such section when rendered for hire, whether or not the agency rendering them is a common carrier. In case a carrier (other than a pipe line) principally engaged in rendering transportation services or facilities for hire does not, because of its ownership of the goods transported, or for any other reason, receive the amount which as a carrier it would otherwise charge, such carrier shall pay a tax equivalent to the tax which would be imposed upon the transportation of such goods if the carrier received payment for such transportation, such tax, if it can not be computed from actual rates or tariffs of the carrier, to be computed on the basis of the rates or tariffs of other carriers for like services as determined by the Commissioner. In the case of any carrier (other than a pipe line) the principal business of which is to transport goods belonging to it on its own account and which only incidentally renders services for hire, the tax shall apply to such services or facilities only as are actually rendered by it for hire. Nothing in this or the preceding section shall be construed as imposing a tax (1) upon the transportation of any commodity which is necessary for the use of the carrier in the conduct of its business as such and is intended to be so used or has been so used; or (2) upon the transportation of company material transported by one carrier, which constitutes a part of a railroad system, for another carrier which is also a part of the same system.

Agency rendering services.

Carrier transporting goods owned by itself.

Incidental service for hire by carrier.

Transportation of commodity necessary for use in carrier's business.

(d) The tax imposed by subdivision (e) of section 500 shall apply to all transportation of oil by pipe line. In case no charge for transportation is made, by reason of ownership of the commodity transported, or for any other reason, the person transporting by pipe line shall pay a tax equivalent to the tax which would be imposed if such person received payment for such transportation, and if the tax can not be computed from actual bona fide

Transportation of oil by pipe line.

rates or tariffs, it shall be computed (1) on the basis of the rates or tariffs of other pipe lines for like services,¹ as determined by the Commissioner, or (2) if no such rates or tariffs exist, on the basis of a reasonable charge for such transportation, as determined by the Commissioner.

Collection of
tax; monthly re-
turns.

SEC. 502. That each person receiving any payments referred to in section 500 shall collect the amount of the tax, if any, imposed by such section from the person making such payments, and shall make monthly returns under oath, in duplicate, and pay the taxes so collected and the taxes imposed upon it under subdivision (c) or (d) of section 501 to the collector of the district in which the principal office or place of business is located.

Listing tax in
bills of lading,
etc.

No carrier collecting the taxes imposed by subdivision (a) or (b) of section 500 shall be required to list the amount of such tax separately in any bill of lading, freight or express receipt, or other similar document, if the total amount of the transportation charge and the tax is stated therein.

Refunds.

Any person making a refund of any payment upon which tax is collected under this section may repay therewith the amount of the tax collected on such payment; and the amount so repaid may be credited against amounts included in any subsequent monthly return.

Regulations
governing re-
turns.

The returns required under this section shall contain such information, and be made at such times and in such manner, as the Commissioner, with the approval of the Secretary, may by regulation prescribe.

Time of pay-
ment; penalty.

The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time so fixed for filing the return. If the tax is not paid when due, there shall be added as part of the tax a penalty of 5 per centum, together with interest at the rate of 1 per centum for each full month, from the time when the tax became due.

CHAPTER TWENTY.

TAX ON INSURANCE.^{1, 2}

[Title V, act of February 24, 1919 (40 Stat., 1057.)]

Sec.
503. Rates of tax imposed on issuance of insurance policies; exemptions.

Sec.
504. Monthly returns; payment of tax; penalty for delinquency.

TITLE V.—TAX ON * * * INSURANCE.

SEC. 503. [Act of February 24, 1919 (40 Stat. 1057).] Tax on issuance of insurance policies.
That from and after April 1, 1919, there shall be levied, assessed, collected, and paid, in lieu of the taxes imposed by section 504 of the Revenue Act of 1917, the following taxes on the issuance of insurance policies, including, in the case of policies issued outside the United States (except those taxable under subdivision 15 of Schedule A of Title XI), their delivery within the United States by any agent or broker, whether acting for the insurer or the insured; such taxes to be paid by the insurer, or by such agent or broker:

(a) Life insurance: A tax equivalent to 8 cents on each \$100 or fractional part thereof of the amount for which any life is insured under any policy of insurance, or other instrument, by whatever name the same is called: *Provided*, That on all policies for life insurance only by which a life is insured not in excess of \$500, issued on the industrial or weekly or monthly payment plan of insurance, the tax shall be 40 per centum of the amount of the first weekly premium or 20 per centum of the amount of the first monthly premium, as the case may be: *Provided further*, That on policies of group life insurance, covering groups of not less than 25 lives in the employ of the same person, for the benefit of persons other than the employer, the tax shall be equivalent to 4 cents on each \$100 of the aggregate amount for which the group policy is issued and of any net increase in the amount of the insurance under such policy: *And provided further*, That on all policies covering life, health, and accident insurance combined in one policy by which a life is insured not in excess of \$500, issued on the industrial, or weekly or monthly payment plan of insurance, the tax shall be 40 per centum of the amount of the first weekly premium or 20 per centum of the amount of the first monthly premium, as the case may be;

¹ See Regulations No. 58.

² Act of October 3, 1917, post, page 846.

Rate of tax on
marine, inland,
and fire insur-
ance policies.

(b) Marine, inland, and fire insurance: A tax equivalent to 1 cent on each dollar or fractional part thereof of the premium charged under each policy of insurance or other instrument by whatever name the same is called whereby insurance is made or renewed upon property of any description (including rents or profits), whether against peril by sea or inland waters, or by fire or lightning, or other peril;

Rate of tax on
casualty insur-
ance.

(c) Casualty insurance: A tax equivalent to 1 cent on each dollar or fractional part thereof of the premium charged under each policy of insurance or obligation of the nature of indemnity for loss, damage, or liability (except bonds and policies taxable under subdivision 2 of schedule A of Title XI) issued or executed or renewed by any person transacting the business of employer's liability, workmen's compensation, accident, health, tornado, plate glass, steam boiler, elevator, burglary, automatic sprinkler, automobile, or other branch of insurance (except life insurance, and insurance described and taxed in the preceding subdivision): *Provided*, That in case of policies of insurance issued on the industrial or weekly or monthly payment plan the tax shall be 40 per centum of the amount of the first weekly premium or 20 per centum of the amount of the first monthly premium, as the case may be;

Exemptions.

(d) Policies issued by any corporation enumerated in section 231, and policies of reinsurance, shall be exempt from the taxes imposed by this section.

Article 6, Regulations No. 58, relating to Insurance Issued abroad, amended. (T. D. 2938.)

Monthly re-
turns.

SEC. 504. That every person issuing policies of insurance upon the issuance of which a tax is imposed by section 503 shall make monthly returns under oath, in duplicate, and pay such tax to the collector of the district in which the principal office or place of business of such person is located. Such returns shall contain such information and be made at such times and in such manner as the Commissioner, with the approval of the Secretary, may by regulation prescribe.

Payment of
tax; penalty.

The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time so fixed for filing the return. If the tax is not paid when due, there shall be added as part of the tax a penalty of 5 per centum, together with interest at the rate of 1 per centum for each full month, from the time when the tax became due.

CHAPTER TWENTY-ONE.

ADMISSIONS AND DUES.^{1, 2}

[Title VIII, act of February 24, 1919 (40 Stat., 1057).]

Sec.

800. Rate of tax on admissions; free admissions or reduced rates; tickets sold at hotels, etc.; excess of regular price; permanent use of box or seat; roof gardens or cabarets, etc.; exemptions; "admission" defined; printing price on ticket.

Sec.

801. Rate of tax on dues or membership fees; exemptions; life memberships.

802. Collection of taxes; returns and payments.

TITLE VIII.—TAX ON ADMISSIONS AND DUES.

SEC. 800. [*Act of February 24, 1919 (40 Stat., 1057).*]

(a) That from and after April 1, 1919, there shall be levied, assessed, collected, and paid, in lieu of the taxes imposed by section 700 of the Revenue Act of 1917—

(1) A tax of 1 cent for each 10 cents or fraction thereof of the amount paid for admission to any place on or after such date, including admission by season ticket or subscription, to be paid by the person paying for such admission; Rate of tax on admissions.

(2) In the case of persons (except bona fide employees, municipal officers on official business, persons in the military or naval forces of the United States when in uniform, and children under twelve years of age) admitted free or at reduced rates to any place at a time when and under circumstances under which an admission charge is made to other persons, a tax of 1 cent for each 10 cents or fraction thereof of the price so charged to such other persons for the same or similar accommodations, to be paid by the person so admitted; Free admissions or reduced rates.

(3) Upon tickets or cards of admission to theaters, operas, and other places of amusement, sold at news stands, hotels, and places other than the ticket offices of such theaters, operas, or other places of amusement, at not to exceed 50 cents in excess of the sum of the established price therefor at such ticket offices plus the amount of any tax imposed under paragraph (1), a tax equivalent to 5 per centum of the amount of such excess; and if sold for more than 50 cents in excess of the sum of such established price plus the amount of any tax imposed under paragraph (1), a tax equivalent to 50 per centum of the whole amount of such excess, such taxes to be returned and paid, in the manner provided in section 908, by the person selling such tickets; Tickets sold at hotels, news stands, etc.

¹ See Regulations No. 43.

² Act of October 3, 1917, post, page 849.

Excess of regular or established price.

(4) A tax equivalent to 50 per centum of the amount for which the proprietors, managers, or employees of any opera house, theater, or other place of amusement sell or dispose of tickets or cards of admission in excess of the regular or established price or charge therefor, such tax to be returned and paid, in the manner provided in section 903, by the person selling such tickets;

Permanent use or lease of boxes or seats.

(5) In the case of persons having the permanent use of boxes or seats in an opera house or any place of amusement or a lease for the use of such box or seat in such opera house or place of amusement (in lieu of the tax imposed by paragraph (1)), a tax equivalent to 10 per centum of the amount for which a similar box or seat is sold for each performance or exhibition at which the box or seat is used or reserved by or for the lessee or holder, such tax to be paid by the lessee or holder; and

Roof gardens, cabarets, etc.

(6) A tax of $1\frac{1}{2}$ cents for each 10 cents or fraction thereof of the amount paid for admission to any public performance for profit at any roof garden, cabaret, or other similar entertainment, to which the charge for admission is wholly or in part included in the price paid for refreshment, service, or merchandise; the amount paid for such admission to be deemed to be 20 per centum of the amount paid for refreshment, service, and merchandise; such tax to be paid by the person paying for such refreshment, service, or merchandise.

Exemptions.

(b) No tax shall be levied under this title in respect to any admissions all the proceeds of which inure exclusively to the benefit of religious, educational, or charitable institutions, societies, or organizations, societies for the prevention of cruelty to children or animals, or exclusively to the benefit of organizations conducted for the sole purpose of maintaining symphony orchestras and receiving substantial support from voluntary contributions, none of the profits of which are distributed to members of such organizations, or exclusively to the benefit of persons in the military or naval forces of the United States, or admissions to agricultural fairs none of the profits of which are distributed to stockholders or members of the association conducting the same.

"Admission" defined.

(c) The term "admission" as used in this title includes seats and tables, reserved or otherwise, and other similar accommodations, and the charges made therefor.

Printing price on ticket.

(d) The price (exclusive of the tax to be paid by the person paying for admission) at which every admission ticket or card is sold shall be conspicuously and indelibly printed, stamped, or written on the face or back thereof, together with the name of the vendor if sold other than at the ticket office of the theater, opera, or other place of amusement. Whoever sells an admission ticket or card on which the name of the vendor and price is not so printed, stamped, or written, or at a price in excess of the price so printed, stamped, or written thereon, is guilty

of a misdemeanor, and upon conviction thereof shall be fined not more than \$100.

Example (1) of article 10, Part I of Regulations No. 43, relating to skating rinks, amended. (T. D. 2949.)

Article 11, Regulations No. 43, amended. (T. D. 2964.)

Method of determining liability of ticket brokers. (T. D. 2974.)

Basis for computing tax where admission is by season ticket or subscription. (T. D. 2975.)

SEC. 801. That from and after April 1, 1919, there shall be levied, assessed, collected, and paid, in lieu of the taxes imposed by section 701 of the Revenue Act of 1917, a tax equivalent to 10 per centum of any amount paid on or after such date, for any period after such date, (a) as dues or membership fees (where the dues or fees of an active resident annual member are in excess of \$10 per year) to any social, athletic, or sporting club or organization; or (b) as initiation fees to such a club or organization, if such fees amount to more than \$10, or if the dues or membership fees (not including initiation fees) of an active resident annual member are in excess of \$10 per year; such taxes to be paid by the person paying such dues or fees: *Provided*, That there shall be exempted from the provisions of this section all amounts paid as dues or fees to a fraternal society, order, or association, operating under the lodge system. In the case of life memberships a life member shall pay annually, at the time for the payment of dues by active resident annual members, a tax equivalent to the tax upon the amount paid by such a member, but shall pay no tax upon the amount paid for life membership.

SEC. 802. That every person (a) receiving any payments for such admission, dues, or fees shall collect the amount of the tax imposed by section 800 or 801 from the person making such payments, or (b) admitting any person free to any place for admission to which a charge is made, shall collect the amount of the tax imposed by section 800 from the person so admitted. Every club or organization having life members, shall collect from such members the amount of the tax imposed by section 801. In all the above cases returns and payments of the amount so collected shall be made at the same time and in the same manner as provided in section 502.

Tax on membership dues or fees.

Exemptions.

Life membership.

Collection of tax on admissions.

Collection of tax on dues.

Returns and payments.

CHAPTER TWENTY-TWO.

EXCISE TAXES.^{1, 2}

[Title IX, act of February 24, 1919 (40 Stat., 1057).]

<p>Sec. 900. Articles subject to tax; rates of tax.</p> <p>901. Computation in case of sale, lease, or license at less than fair market value.</p> <p>902. Sculpture, paintings, statuary, etc.</p> <p>903. Monthly returns and payment of tax.</p>	<p>Sec. 904. Luxury tax.</p> <p>905. Jewelry; returns and payment of tax.</p> <p>906. Leasing or licensing for exhibition motion-picture films.</p> <p>907. Perfumes, extracts, toilet waters, etc.; pills, tablets, powders, etc.; method of collecting tax.</p>
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TITLE IX.—EXCISE TAXES.

SEC. 900. [*Act of February 24, 1919 (40 Stat., 1057).*] Articles sub-
ject to tax; rates
of tax.
That there shall be levied, assessed, collected, and paid upon the following articles sold or leased by the manufacturer, producer, or importer, a tax equivalent to the following percentages of the price for which so sold or leased—

(1) Automobile trucks and automobile wagons, (including tires, inner tubes, parts, and accessories therefor, sold on or in connection therewith or with the sale thereof), 3 per centum;

(2) Other automobiles and motorcycles, (including tires, inner tubes, parts, and accessories therefor, sold on or in connection therewith or with the sale thereof), except tractors, 5 per centum;

(3) Tires, inner tubes, parts, or accessories, for any of the articles enumerated in subdivision (1) or (2), sold to any person other than a manufacturer or producer of any of the articles enumerated in subdivision (1) or (2), 5 per centum;

(4) Pianos, organs (other than pipe organs), piano players, graphophones, phonographs, talking machines, music boxes, and records used in connection with any musical instrument, piano player, graphophone, phonograph, or talking machine, 5 per centum;

(5) Tennis rackets, nets, racket covers and presses, skates, snow-shoes, skis, toboggans, canoe paddles and cushions, polo mallets, baseball bats, gloves, masks, protectors, shoes and uniforms, football helmets, harness and goals, basket-ball goals and uniforms, golf bags and clubs, lacrosse sticks, balls of all kinds, including baseballs, footballs, tennis, golf, lacrosse, billiard and pool balls, fish-

¹ See Regulations Nos. 47, 48, 51, 54, 56.
² Act October 3, 1917 (see post, p. 849).

ing rods and reels, billiard and pool tables, chess and checker boards and pieces, dice, games and parts of games (except playing cards and children's toys and games), and all similar articles commonly or commercially known as sporting goods, 10 per centum;

(6) Chewing gum or substitutes therefor, 3 per centum;

(7) Cameras, weighing not more than 100 pounds, 10 per centum;

(8) Photographic films and plates, other than moving-picture films, 5 per centum;

(9) Candy, 5 per centum;

(10) Firearms, shells, and cartridges, except those sold for the use of the United States, any State, Territory, or possession of the United States, any political subdivision thereof, the District of Columbia, or any foreign country while engaged against the German Government in the present war, 10 per centum;

(11) Hunting and bowie knives, 10 per centum;

(12) Dirk knives, daggers, sword canes, stilletos, and brass or metallic knuckles, 100 per centum;

(13) Portable electric fans, 5 per centum;

(14) Thermos and thermostatic bottles, carafes, jugs, or other thermostatic containers, 5 per centum;

(15) Cigar or cigarette holders and pipes, composed wholly or in part of meerschaum or amber, humidors, and smoking stands, 10 per centum;

(16) Automatic slot-device vending machines, 5 per centum, and automatic, slot-device weighing machines, 10 per centum; if the manufacturer, producer, or importer of any such machine operates it for profit, he shall pay a tax in respect to each such machine put into operation equivalent to 5 per centum of its fair market value in the case of a vending machine, and 10 per centum of its fair market value in the case of a weighing machine;

(17) Liveries and livery boots and hats, 10 per centum;

(18) Hunting and shooting garments and riding habits, 10 per centum;

(19) Articles made of fur on the hide or pelt, or of which any such fur is the component material of chief value, 10 per centum;

(20) Yachts and motor boats not designed for trade, fishing, or national defense; and pleasure boats and pleasure canoes if sold for more than \$15, 10 per centum; and

(21) Toilet soaps and toilet soap powders, 3 per centum.

If any manufacturer, producer, or importer of any of the articles enumerated in this section customarily sells such articles both at wholesale and at retail, the tax in the case of any article sold by him at retail shall be

computed on the price for which like articles are sold by him at wholesale.

The taxes imposed by this section shall, in the case of any article in respect to which a corresponding tax is imposed by section 600 of the Revenue Act of 1917, be in lieu of such tax.

Manufacturers, producers, and importers are subject to excise tax upon all sales of taxable articles made to States or political subdivisions thereof, except where specifically exempt from tax upon such sales, as under subdivision (10) of this section. (T. D. 2897.)

Article 10 of Regulations 47, amended. (T. D. 2897.)

Article 8 of Regulations 47, amended. (T. D. 2893.)

Articles 14 and 16 of Regulations 47, supplemented. (T. D. 2893.)

Article 11, Regulations No. 47, as to scope of tax on automobiles, amended. (T. D. 2930.)

Article 14, Regulations No. 47, and T. Ds. 2852, 2860, and 2893, modified in so far as they relate to sales of tires, etc., to manufacturers of automobiles, etc. (T. D. 2915.)

Articles 26 and 34, Regulations No. 47, amended. (T. D. 2852.)

Article 15 of Regulations 47, modified by T. D. 2852; further modified. (T. D. 2893.)

Article 17-19, 31, 33 of Regulations 47, supplemented. (T. D. 2893.)

Article 29 of Regulations 47, amended. (T. D. 2893.)

Article 7 of Regulations 47, supplemented. (T. D. 2948.)

SEC. 901. That if any person manufactures, produces or imports any article enumerated in section 900, or leases or licenses for exhibition any positive motion-picture film containing a picture ready for projection, and, whether through any agreement, arrangement, or understanding, or otherwise, sells, leases, or licenses such article at less than the fair market price obtainable therefor, either (a) in such manner as directly or indirectly to benefit such person or any person directly or indirectly interested in the business of such person, or (b) with intent to cause such benefit, the amount for which such article is sold, leased or licensed shall be taken to be the amount which would have been received from the sale, lease or license of such article if sold, leased or licensed at the fair market price.

Computation in case of sale, lease, or license at less than fair market value.

SEC. 902. That there shall be levied, assessed, collected, and paid upon sculpture, paintings, statuary, art porcelains, and bronzes, sold by any person other than the artist, a tax equivalent to 10 per centum of the price for which so sold. This section shall not apply to the sale of any such article to an educational institution or public art museum.

Sculpture, paintings, statuary, etc.

Manufacturers, producers, importers and vendors are liable to tax upon all sales of taxable articles made to State or political subdivisions thereof. (T. D. 2897.)

Article 6 of Regulations 48, amended. (T. D. 2897.)

Article 14, Regulations No. 48, relating to "art porcelains," amended. (T. D. 2945.)

Monthly re-
turns and pay-
ment of tax.

SEC. 903. That every person liable for any tax imposed by section 900, 902, or 906, shall make monthly returns under oath in duplicate and pay the taxes imposed by such sections to the collector for the district in which is located the principal place of business. Such returns shall contain such information and be made at such times and in such manner as the Commissioner, with the approval of the Secretary, may by regulations prescribe.

The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time so fixed for filing the return. If the tax is not paid when due, there shall be added as part of the tax a penalty of 5 per centum, together with interest at the rate of 1 per centum for each full month, from the time when the tax became due.

Luxury tax.

SEC. 904. (a) That on and after May 1, 1919, there shall be levied, assessed, collected, and paid a tax equivalent to 10 per centum of so much of the amount paid for any of the following articles as is in excess of the price hereinafter specified as to each such article, when such article is sold by or for a dealer or his estate on or after such date for consumption or use—

(1) Carpets and rugs, including fiber, except imported and American rugs made principally of wool, on the amount in excess of \$5 per square yard;

(2) Picture frames, on the amount in excess of \$10 each;

(3) Trunks, on the amount in excess of \$50 each;

(4) Valises, traveling bags, suit cases, hat boxes used by travelers, and fitted toilet cases, on the amount in excess of \$25 each;

(5) Purses, pocketbooks, shopping and hand bags, on the amount in excess of \$7.50 each;

(6) Portable lighting fixtures, including lamps of all kinds and lamp shades, on the amount in excess of \$25 each;

Purchaser of lamp and shade entitled to exemption of \$25 from amount paid (1) for lamp and (2) for shade; article 18, Regulations No. 54, amended. (T. D. 2950.)

(7) Umbrellas, parasols, and sun shades, on the amount in excess of \$4 each;

(8) Fans, on the amount in excess of \$1 each;

(9) House or smoking coats or jackets, and bath or lounging robes, on the amount in excess of \$7.50 each;

(10) Men's waistcoats, sold separately from suits, on the amount in excess of \$5 each;

(11) Women's and misses' hats, bonnets, and hoods, on the amount in excess of \$15 each;

(12) Men's and boys' hats, on the amount in excess of \$5 each;

(13) Men's and boys' caps, on the amount in excess of \$2 each;

(14) Men's, women's, misses', and boys' boots, shoes, pumps, and slippers, not including shoes or appliances made to order for any person having a crippled or deformed foot or ankle, on the amount in excess of \$10 per pair;

(15) Men's and boys' neckties and neckwear, on the amount in excess of \$2 each;

(16) Men's and boys' silk stockings or hose, on the amount in excess of \$1 per pair;

(17) Women's and misses' silk stockings or hose, on the amount in excess of \$2 per pair;

(18) Men's shirts, on the amount in excess of \$3 each;

(19) Men's, women's, misses', and boys' pajamas, night gowns, and underwear, on the amount in excess of \$5 each; and

(20) Kimonos, petticoats, and waists, on the amount in excess of \$15 each.

(b) The tax imposed by this section shall not apply (1) to any article enumerated in paragraphs (2) to (8), both inclusive, of subdivision (a), if such article is made of, or ornamented, mounted, or fitted with, precious metals or imitations thereof or ivory, or (2) to any article made of fur on the hide or pelt, or of which any such fur is the component material of chief value, or to (3) any article enumerated in subdivision (17) or (18) of section 900.

(c) The taxes imposed by this section shall be paid by the purchaser to the vendor at the time of the sale and shall be collected, returned, and paid to the United States by such vendor in the same manner as provided in section 502.

Where excise tax is imposed directly upon vendee, sales to States or political subdivisions thereof are exempt from tax. (T. D. 2897.)

Articles 24, 25, 28, 30 of Regulations 54, supplemented. (T. D. 2893.)

Sales slips to be kept 90 days. (T. D. 2965.)

SEC. 905. That on and after April 1, 1919, there shall be levied, assessed, collected, and paid (in lieu of the tax imposed by subdivision (e) of section 600 of the Revenue Act of 1917) upon all articles commonly or commercially known as jewelry, whether real or imitation; pearls, precious and semiprecious stones, and imitations thereof; articles made of, or ornamented, mounted or fitted with, precious metals or imitations thereof or ivory (not including surgical instruments); watches; clocks; opera glasses; lorgnettes; marine glasses; field glasses; and binoculars; upon any of the above when sold by or for a dealer or his estate for consumption or use, a tax equivalent to 5 per centum of the price for which so sold.

Jewelry: returns and payment of tax.

Every person selling any of the articles enumerated in this section shall make returns under oath in duplicate (monthly or quarterly as the Commissioner, with

the approval of the Secretary, may prescribe) and pay the taxes imposed in respect to such articles by this section to the collector for the district in which is located the principal place of business. Such returns shall contain such information and be made at such times and in such manner as the Commissioner, with the approval of the Secretary, may by regulations prescribe.

The tax shall, without assessment by the Commissioner or notice from the collector, be due and payable to the collector at the time so fixed for filing the return. If the tax is not paid when due, there shall be added as part of the tax a penalty of 5 per centum, together with interest at the rate of 1 per centum for each full month, from the time when the tax became due.

Manufacturers, producers, importers and vendors are liable to tax upon all sales of taxable articles made to States or political subdivisions thereof. (T. D. 2897.)

Article 3 of Regulations 48, amended. (T. D. 2893.)

Article 6 of Regulations 48, amended. (T. D. 2897.)

Articles 5, 24, 28 of Regulations 48, supplemented. (T. D. 2893.)

Article 19, Regulations No. 48, relating to articles tax paid under other acts, amended. (T. D. 2896.)

Leasing or licensing for exhibition motion-picture films.

SEC. 906. That on and after the 1st day of May, 1919, any person engaged in the business of leasing or licensing for exhibition positive motion-picture films containing pictures ready for projection shall pay monthly an excise tax in respect to carrying on such business equal to 5 per centum of the total rentals earned from each such lease or license during the preceding month. If a person owning such a film exhibits it for profit he shall pay a tax equivalent to 5 per centum of the fair rental or license value of such film at the time and place where and for the period during which exhibited. If any such person has, prior to December 6, 1918, made a bona fide contract with any person for the lease or licensing, after the tax imposed by this section takes effect, of such a film for exhibition for profit, and if such contract does not permit the adding of the whole of the tax imposed by this section to the amount to be paid under such contract then the lessee or licensee shall, in lieu of the lessor or licensor, pay so much of such tax as is not so permitted to be added to the contract price. The tax imposed by this section shall be in lieu of the tax imposed by subdivisions (c) and (d) of section 600 of the Revenue Act of 1917.

Lessors of positive motion-picture films containing pictures ready for projection are subject to tax upon amounts received from the leasing of such films to States or political subdivisions thereof. (T. D. 2897.)

Perfumes, extracts, toilet waters, etc.; pills, tablets, powders, etc.; method of collecting tax.

SEC. 907. (a) That on and after May 1, 1919, there shall be levied, assessed, collected and paid (in lieu of the taxes imposed by subdivisions (g) and (h) of section 600 of the Revenue Act of 1917) a tax of 1 cent for each 25 cents or fraction thereof of the amount paid for any

of the following articles when sold by or for a dealer or his estate on or after such date for consumption or use:

(1) Perfumes, essences, extracts, toilet waters, cosmetics, petroleum jellies, hair oils, pomades, hair dressings, hair restoratives, hair dyes, tooth and mouth washes, dentifrices, tooth pastes, aromatic cachous, toilet powders (other than soap powders), or any similar substance, article, or preparation by whatsoever name known or distinguished, any of the above which are used or applied or intended to be used or applied for toilet purposes;

(2) Pills, tablets, powders, tinctures, troches or lozenges, sirups, medicinal cordials or bitters, anodynes, tonics, plasters, liniments, salves, ointments, pastes, drops, waters (except those taxed under section 628 of this Act), essences, spirits, oils, and other medicinal preparations, compounds, or compositions (not including serums and antitoxins), upon the amount paid for any of the above as to which the manufacturer or producer claims to have any private formula, secret, or occult art for making or preparing the same, or has or claims to have any exclusive right or title to the making or preparing the same, or which are prepared, uttered, vended, or exposed for sale under any letters patent, or trade-mark, or which (if prepared by any formula, published or unpublished) are held out or recommended to the public by the makers, vendors, or proprietors thereof as proprietary medicines or medicinal proprietary articles or preparations, or as remedies or specifics for any disease, diseases, or affection whatever affecting the human or animal body: *Provided*, That the provisions of this section shall not apply to the sale of vaccines and bacterines which are not advertised to the general lay public, nor to the sale by a physician in personal attendance upon a patient of medicinal preparations not so advertised.

(b) The taxes imposed by this section shall be collected by whichever of the following methods the Commissioner may deem expedient: (1) by stamp affixed to such article by the vendor, the cost of which shall be reimbursed to the vendor by the purchaser; or (2) by payment to the vendor by the purchaser at the time of the sale, the taxes so collected being returned and paid to the United States by such vendor in the same manner as provided in section 502.

Proprietary stamps prepared and distributed under authority section 22, act October 22, 1914, can not legally be used for payment of taxes imposed by this section. (T. D. 2893.)

Articles 5, 16, 17 (d), Regulations 51, supplemented. (T. D. 2893.) Article 5 further modified. (T. D. 2958.)

Article 8 of Regulations 51, amended. (T. D. 2893.)

Where excise tax is imposed directly upon vendee, sales to States or political subdivisions thereof are exempt from tax. (T. D. 2897.)

Article 20, Regulations No. 51, relating to collection of tax, amended. (T. D. 2942.)

CHAPTER TWENTY-THREE.

STAMP TAXES ON SPECIFIC OBJECTS.¹

Sec.	Sec.
3422. Affixing stamps to instruments to render them valid.	3429 (amended). Forging, counterfeiting, etc., or fraudulently using or selling stamps, etc.; penalties.
3428 (amended). Superseded by Act of May 12, 1860 (amended). Redemption of stamps.	3437. Assessment of stamp taxes where articles are removed without being stamped.

[Title XI, act of February 24, 1919 (40 Stat., 1057).]

Sec.	Sec.
1160. Date tax effective.	1106. Stamps furnished to postmasters.
1101. Exemptions.	1107. Sale of stamps. Schedule A. Rate of taxes on various instruments.
1102. Penalties.	
1103. Same.	
1104. Method of canceling stamps.	
1105. Preparation and distribution of stamps; contracts; applicability of general laws.	

For former acts of Congress requiring stamps to be affixed to certain written instruments, see act of July 1, 1862, Schedule B, following section 110 (12 Stat., 479); act of March 3, 1863, section 6 (12 Stat., 720); act of June 30, 1864, section 151 (13 Stat., 291); act of March 3, 1865, section 1 (13 Stat., 469); act of July 13, 1866 (14 Stat., 141); act of June 23, 1874, section 1 (18 Stat., part 3, 250).

The act of June 6, 1872, section 36 (17 Stat., 256), provided for the repeal, on and after October 31, 1872, of stamp taxes on instruments, except the tax of 2 cents on bank checks, drafts, and orders, which was repealed by the act of March 3, 1883 (22 Stat., 488).

Taxes were imposed by the act of June 13, 1898, on instruments and documents, under Schedule A thereof, and were repealed in part by the act of March 2, 1901, and wholly repealed by the war-revenue repeal act of April 12, 1902 (32 Stat., 96), taking effect July 1, 1902.

Stamp taxes on instruments were also imposed by the act of October 22, 1914, effective December 1, 1914 (Emergency Revenue Act), which by its own terms expired December 31, 1915, but was extended by joint resolution of December 17, 1915, until and including December 31, 1916, and then repealed by the act of September 8, 1916 (39 Stat., 758), effective September 9, 1916. Stamp taxes were again imposed by the War Revenue Act of October 3, 1917, going into effect December 1, 1917.

Sec. 3422. * * * (This section was amended by the acts of February 18, 1875 (18 Stat., 319), and February 27, 1877 (19 Stat., 248), and was then superseded by section 13, act of June 13, 1898 (30 Stat., 454), which was repealed by section 7, act of April 12, 1902 (32 Stat., 96).)

¹ See Regulations No. 40.

SEC. 3426. [*Amended by sec. 17, act of March 1, 1879 (20 Stat., 327).*] Redemption of stamps, etc.

This section has been superseded by the following Act:

REDEMPTION OF STAMPS.

An Act Authorizing the Commissioner of Internal Revenue to redeem or make allowance for internal-revenue stamps. (Act of May 12, 1900 (31 Stat., 177), as amended by the act of June 30, 1902 (32 Stat., 506).)

Redemption or refunding the value of stamps denoting the payment of any internal-revenue tax.

That the Commissioner of Internal Revenue, subject to regulations prescribed by the Secretary of the Treasury, may, upon receipt of satisfactory evidence of the facts, make allowance for or redeem such of the stamps, issued under authority of law, to denote the payment of any internal-revenue tax, as may have been spoiled, destroyed, or rendered useless or unfit for the purpose intended, or for which the owner may have no use, or which through mistake may have been improperly or unnecessarily used, or where the rates or duties represented thereby have been excessive in amount, paid in error, or in any manner wrongfully collected. Such allowance or redemption may be made, either by giving other stamps in lieu of the stamps so allowed for or redeemed, or by refunding the amount or value to the owner thereof, deducting therefrom, in case of repayment, the percentage, if any, allowed to the purchaser thereof; but no allowance or redemption shall be made in any case until the stamps so spoiled or rendered useless shall have been returned to the Commissioner of Internal Revenue, or until satisfactory proof has been made showing the reason why the same can not be returned; or, if so required by the said Commissioner, when the person presenting the same can not satisfactorily trace the history of said stamps from their issuance to the presentation of his claim as aforesaid.

Provided, That documentary and proprietary stamps issued under the provisions of "An act to provide ways and means for war expenditures, and for other purposes," approved June thirteenth, eighteen hundred and ninety-eight, may be redeemed only when presented in quantities of two dollars or more, face value;

Limitation to redemption.

Provided further, That no claim for the redemption of or allowance for stamps shall be allowed unless presented within two years after the purchase of said stamps from the Government, "excepting documentary and proprietary stamps issued under the Act of June thirteenth, eighteen hundred and ninety-eight, which stamps may be redeemed as hereinbefore authorized, upon presentation prior to the first day of July, nineteen hundred and four."

Finding of Commissioner final except in case of fraud or mathematical mistake.

SEC. 2. That the finding of facts in and the decision of the Commissioner of Internal Revenue upon the merits of any claim presented under or authorized by this Act

shall, in the absence of fraud or mistake in mathematical calculation, be final and not subject to revision by any accounting officer.

SEC. 3. That all laws and parts of laws in conflict with any of the provisions of this Act are hereby repealed.

The American West Indies Trading Co. v. United States. (45 Ct. Cls., 488.)

Court of Claims has jurisdiction to enforce payment of a claim allowed by Commissioner and disallowed by Comptroller. (Kaufman v. United States, 11 Ct. Cls., 659; 96 U. S., 507; 24 Int. Rev. Rec., 135.) See also Woolner's case (13 Ct. Cls., 355; 24 Int. Rev. Rec., 181).

Stamps not representing revenue taxes will not be redeemed by the Government. (Letter to Collector Shearer, Oct. 28, 1897; 43 Int. Rev. Rec., 401.)

There is no material difference between the powers of the Commissioner under section 3426, and under section 3220. Under section 3426 he is to "allow" the claim, which is done either by giving other stamps in lieu of those that have been spoiled, etc., or by repaying the amount or value. Under section 3220 he is to "refund" and "pay back." His payments in both cases must be made through the accounting officers of the Treasury Department, as he is not himself a disbursing officer. (United States v. Savings Bank (1881), 104 U. S., 733; 28 Int. Rev. Rec., 87.)

(United States v. American Tobacco Co., 166 U. S., 468.)

Internal-revenue stamps redeemable only when owned and presented for redemption by persons, or their legal representatives, authorized to purchase and use them for the payment of taxes. (T. D. 19224.)

SEC. 3429. [*Amended by sec. 17, act of March 1, 1879 (20 Stat., 327); reenacted by sec. 42, act of August 27, 1894 (28 Stat., 552).*]

And the fact that any adhesive stamp so bought, sold, offered for sale, used, or had in possession as aforesaid, has been washed or restored by removing or altering the canceling or defacing marks thereon, shall be prima facie proof that such stamp has been once used and removed by the possessor thereof from some paper, instrument, or writing, charged with taxes imposed by law, in violation of the provisions of this section.

Prima facie evidence of washing, restoring, etc.

Indictment for having in possession and knowingly offering for sale washed and restored adhesive documentary stamps. (Kaufman v. United States, 51 C. C. A., 549, 113 Fed., 919.)

Counterfeiting imitation wine or compound liquor stamps (sec. 3328, p. 325).

Counterfeiting stamps for fermented liquors (sec. 3346, p. 314).

Using imitation stamps on packages of distilled spirits (sec. 17, act of February 8, 1875 (18 Stat., 307); p. 270).

Counterfeiting obligations or securities of the United States, which include stamps (secs. 147, 148, Criminal Code, act March 4, 1909, 35 Stat., 1115, p. 680, Appendix).

Dealing in counterfeited securities (sec. 154, Criminal Code, act March 4, 1909, 35 Stat., 1117).

SEC. 3437. Whenever any article upon which a tax is required to be paid by means of a stamp is sold or removed for sale by the manufacturer thereof, without the

Assessment of stamp taxes when article is removed without being stamped.

use of the proper stamp, in addition to the penalties imposed by law for such sale or removal, it shall be the duty of the Commissioner of Internal Revenue, within a period of not more than two years after such removal or sale, upon such information as he can obtain, to estimate the amount of the tax which has been omitted to be paid, and to make an assessment therefor upon the manufacturer or producer of such article. He shall certify such assessment to the collector, who shall immediately demand payment of such tax, and upon the neglect or refusal of payment by such manufacturer or producer, shall proceed to collect the same in the manner provided for the collection of other assessed taxes.

As to assessments in general, see section 3182, page 112.

TITLE XI.—STAMP TAXES.¹

Date tax effective.

SEC. 1100. [*Act of February 24, 1919 (40 Stat., 1057).*] That on and after April 1, 1919, there shall be levied, collected, and paid, for and in respect of the several bonds, debentures, or certificates of stock and of indebtedness, and other documents, instruments, matters, and things mentioned and described in Schedule A of this title, or for or in respect of the vellum, parchment, or paper upon which such instruments, matters, or things, or any of them, are written or printed, by any person who makes, signs, issues, sells, removes, consigns, or ships the same, or for whose use or benefit the same are made, signed, issued, sold, removed, consigned, or shipped, the several taxes specified in such schedule. The taxes imposed by this section shall, in the case of any article upon which a corresponding stamp is now imposed by law, be in lieu of such tax.

Exemptions.

SEC. 1101. That there shall not be taxed under this title any bond, note, or other instrument, issued by the United States, or by any foreign Government, or by any State, Territory, or the District of Columbia, or local subdivision thereof, or municipal or other corporation exercising the taxing power; or any bond of indemnity required to be filed by any person to secure payment of any pension, allowance, allotment, relief, or insurance by the United States; or stocks and bonds issued by cooperative building and loan associations which are organized and operated exclusively for the benefit of their members and make loans only to their shareholders, or by mutual ditch or irrigating companies.

Indemnity bonds given under section 3646, R. S., to secure United States against lost checks issued on war risk insurance not subject to tax. (T. D. 2900.)

Penalties.

SEC. 1102. That whoever—

(a) Makes, signs, issues, or accepts, or causes to be made, signed, issued, or accepted, any instrument, docu-

¹ See Regulations No. 55.

ment, or paper of any kind or description whatsoever without the full amount of tax thereon being duly paid;

(b) Consigns or ships, or causes to be consigned or shipped, by parcel post any parcel, package, or article without the full amount of tax being duly paid;

(c) Manufactures or imports and sells, or offers for sale, or causes to be manufactured or imported and sold, or offered for sale, any playing cards, package, or other article without the full amount of tax being duly paid;

(d) Makes use of any adhesive stamp to denote any tax imposed by this title without canceling or obliterating such stamp as prescribed in section 1104;

Is guilty of a misdemeanor and upon conviction thereof shall pay a fine of not more than \$100 for each offense.

Sec.1103. That whoever—

Penalties.

(a) Fraudulently cuts, tears, or removes from any vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title, any adhesive stamp or the impression of any stamp, die, plate, or other article provided, made, or used in pursuance of this title;

(b) Fraudulently uses, joins, fixes, or places to, with, or upon any vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title, (1) any adhesive stamp, or the impression of any stamp, die, plate, or other article, which has been cut, torn, or removed from any other vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title; or (2) any adhesive stamp or the impression of any stamp, die, plate, or other article of insufficient value; or (3) any forged or counterfeit stamp, or the impression of any forged or counterfeited stamp, die, plate, or other article;

(c) Willfully removes, or alters the cancellation, or defacing marks of, or otherwise prepares, any adhesive stamp, with intent to use, or cause the same to be used, after it has been already used, or knowingly or willfully buys, sells, offers for sale, or gives away, any such washed or restored stamp to any person for use, or knowingly uses the same;

(d) Knowingly and without lawful excuse (the burden of proof of such excuse being on the accused) has in possession any washed, restored, or altered stamp, which has been removed from any vellum, parchment, paper, instrument, writing, package, or article:

Is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than five years, or both, and any such reused, canceled, or counterfeit stamp and the vellum, parchment, document, paper, package, or article upon which it is placed or impressed shall be forfeited to the United States.

Method of canceling stamps.

SEC. 1104. That whenever an adhesive stamp is used for denoting any tax imposed by this title, except as hereinafter provided, the person using or affixing the same shall write or stamp or cause to be written or stamped thereupon the initials of his or its name and the date upon which the same is attached or used, so that the same may not again be used: *Provided*, That the Commissioner may prescribe such other method for the cancellation of such stamps as he may deem expedient.

Preparation and distribution of stamps.

SEC. 1105. (a) That the Commissioner shall cause to be prepared and distributed for the payment of the taxes prescribed in this title suitable stamps denoting the tax on the document, articles, or thing to which the same may be affixed, and shall prescribe such method for the affixing of said stamps in substitution for or in addition to the method provided in this title, as he may deem expedient.

Commissioner authorized to make contract.

(b) The Commissioner, with the approval of the Secretary, is authorized to procure any of the stamps provided for in this title by contract whenever such stamps can not be speedily prepared by the Bureau of Engraving and Printing; but this authority shall expire on January 1, 1920, except as to imprinted stamps furnished under contract, authorized by the Commissioner.

General laws applicable.

(c) All internal-revenue laws relating to the assessment and collection of taxes are hereby extended to and made a part of this title, so far as applicable, for the purpose of collecting stamp taxes omitted through mistake or fraud from any instrument, document, paper, writing, parcel, package, or article named herein.

Stamps to be furnished to postmasters.

SEC. 1106. That the Commissioner shall furnish to the Postmaster General without prepayment a suitable quantity of adhesive stamps to be distributed to and kept on sale by the various postmasters in the United States. The Postmaster General may require each such postmaster to give additional or increased bond as postmaster for the value of the stamps so furnished, and each such postmaster shall deposit the receipts from the sale of such stamps to the credit of and render accounts to the Postmaster General at such times and in such form as he may by regulations prescribe. The Postmaster General shall at least once monthly transfer all collections from this source to the Treasury as internal-revenue collections.

Sale of stamps.

SEC. 1107. That the collectors of the several districts shall furnish without prepayment to any assistant treasurer or designated depository of the United States located in their respective collection districts a suitable quantity of adhesive stamps for sale. In such cases the collector may require a bond, with sufficient sureties, to an amount equal to the value of the adhesive stamps so furnished, conditioned for the faithful return, whenever so required, of all quantities or amounts undisposed of, and for the payment monthly of all quantities or

amounts sold or not remaining on hand. The Secretary may from time to time make such regulations as he may find necessary to insure the safekeeping or prevent the illegal use of all such adhesive stamps.

SCHEDULE A.

1. Bonds of indebtedness: On all bonds, debentures, or certificates of indebtedness issued by any person, and all instruments, however termed, issued by any corporation with interest coupons or in registered form, known generally as corporate securities, on each \$100 of face value or fraction thereof, 5 cents: *Provided*, That every renewal of the foregoing shall be taxed as a new issue: *Provided further*, That when a bond conditioned for the repayment or payment of money is given in a penal sum greater than the debt secured, the tax shall be based upon the amount secured.

Rate of tax on various instruments.
Bonds of indebtedness.

Article 14, Regulations No. 55, defining "certificates of indebtedness," amended. (T. D. 2919.)

2. Bonds, indemnity and surety: On all bonds executed for indemnifying any person who shall have become bound or engaged as surety, and on all bonds executed for the due execution or performance of any contract, obligation, or requirement, or the duties of any office or position, and to account for money received by virtue thereof, and on all policies of guaranty and fidelity insurance, including policies guaranteeing titles to real estate and mortgage guarantee policies, and on all other bonds of any description, made, issued, or executed, not otherwise provided for in this schedule, except such as may be required in legal proceedings, 50 cents: *Provided*, That where a premium is charged for the issuance, execution, renewal or continuance of such bond the tax shall be 1 cent on each dollar or fractional part thereof of the premium charged: *Provided further*, That policies of reinsurance shall be exempt from the tax imposed by this subdivision.

Indemnity and surety bonds.

Collection of taxes upon premiums charged for issuance, execution, etc., of bonds or policies mentioned in this subdivision. (T. D. 2825.)

Article 28, Regulations No. 55, amended. (T. D. 2913.)

3. Capital stock, issued: On each original issue, whether on organization or reorganization, of certificates of stock, or of profits, or of interest in property or accumulations, by any corporation, on each \$100 of face value or fraction thereof, 5 cents: *Provided*, That where a certificate is issued without face value, the tax shall be 5 cents per share, unless the actual value is in excess of \$100 per share, in which case the tax shall be 5 cents on each \$100 of actual value or fraction thereof.

Issue of capital stock.

The stamps representing the tax imposed by this subdivision shall be attached to the stock books and not to the certificates issued.

Sale or transfer of capital stock.

4. Capital stock, sales or transfers: On all sales, or agreements to sell, or memoranda of sales or deliveries of, or transfers of legal title to shares or certificates of stock or of profits or of interest in property or accumulations in any corporation, or to rights to subscribe for or to receive such shares or certificates, whether made upon or shown by the books of the corporation, or by any assignment in blank, or by any delivery, or by any paper or agreement or memorandum or other evidence of transfer or sale, whether entitling the holder in any manner to the benefit of such stock, interest, or rights, or not, on each \$100 of face value or fraction thereof, 2 cents, and where such shares are without par or face value, the tax shall be 2 cents on the transfer or sale or agreement to sell on each share, unless the actual value thereof is in excess of \$100 per share, in which case the tax shall be 2 cents on each \$100 of actual value or fraction thereof: *Provided*, That it is not intended by this title to impose a tax upon an agreement evidencing a deposit of certificates as collateral security for money loaned thereon, which certificates are not actually sold, nor upon the delivery or transfer for such purpose of certificates so deposited: *Provided further*, That the tax shall not be imposed upon deliveries or transfers to a broker for sale, nor upon deliveries or transfers by a broker to a customer for whom and upon whose order he has purchased same, but such deliveries or transfers shall be accompanied by a certificate setting forth the facts: *Provided further*, That in case of sale where the evidence of transfer is shown only by the books of the corporation the stamp shall be placed upon such books; and where the change of ownership is by transfer of the certificate the stamp shall be placed upon the certificate; and in cases of an agreement to sell or where the transfer is by delivery of the certificate assigned in blank there shall be made and delivered by the seller to the buyer a bill or memorandum of such sale, to which the stamp shall be affixed; and every bill or memorandum of sale or agreement to sell before mentioned shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers. Any person liable to pay the tax as herein provided, or anyone who acts in the matter as agent or broker for such person, who makes any such sale, or who in pursuance of any such sale delivers any certificate or evidence of the sale of any stock, interest or right, or bill or memorandum thereof, as herein required, without having the proper stamps affixed thereto with intent to evade the foregoing provisions, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding \$1,000, or be imprisoned not more than six months, or both.

Sales of produce on exchange.

5. Produce, sales of, on exchange: Upon each sale, agreement of sale, or agreement to sell (not including

so-called transferred or scratch sales), any products or merchandise at, or under the rules or usages of, any exchange, or board of trade, or other similar place, for future delivery, for each \$100 in value of the merchandise covered by said sale or agreement of sale or agreement to sell, 2 cents, and for each additional \$100 or fractional part thereof in excess of \$100, 2 cents: *Provided*, That on every sale or agreement of sale or agreement to sell as aforesaid there shall be made and delivered by the seller to the buyer a bill, memorandum, agreement, or other evidence of such sale, agreement of sale, or agreement to sell, to which there shall be affixed a lawful stamp or stamps in value equal to the amount of the tax on such sale: *Provided further*, That sellers of commodities described herein, having paid the tax provided by this subdivision, may transfer such contracts to a clearing-house corporation or association, and such transfer shall not be deemed to be a sale, or agreement of sale, or an agreement to sell within the provisions of this Act, provided that such transfer shall not vest any beneficial interest in such clearing-house association but shall be made for the sole purpose of enabling such clearing-house association to adjust and balance the accounts of the members of such clearing-house association on their several contracts. Every such bill, memorandum, or other evidence of sale or agreement to sell shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers; and any person liable to pay the tax as herein provided, or anyone who acts in the matter as agent or broker for such person, who makes any such sale or agreement of sale, or agreement to sell, or who, in pursuance of any such sale, agreement of sale, or agreement to sell, delivers any such products or merchandise without a bill, memorandum, or other evidence thereof as herein required, or who delivers such bill, memorandum, or other evidence of sale, or agreement to sell, without having the proper stamps affixed thereto, with intent to evade the foregoing provisions, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding \$1,000 or be imprisoned not more than six months, or both.

No bill, memorandum, agreement, or other evidence of such sale, or agreement of sale, or agreement to sell, in case of cash sales of products or merchandise for immediate or prompt delivery which in good faith are actually intended to be delivered shall be subject to this tax.

6. Drafts or checks (payable otherwise than at sight or on demand) upon their acceptance or delivery within the United States whichever is prior, promissory notes, except bank notes issued for circulation, and for each renewal of the same, for a sum not exceeding \$100, 2

Drafts or checks payable otherwise than at sight or on demand.

cents; and for each additional \$100, or fractional part thereof, 2 cents.

This subdivision shall not apply to a promissory note secured by the pledge of bonds or obligations of the United States issued after April 24, 1917, or secured by the pledge of a promissory note which itself is secured by the pledge of such bonds or obligations: *Provided*, That in either case the par value of such bonds or obligations shall be not less than the amount of such note.

Promissory notes given to or issued by Federal land banks or joint stock land banks; article 53, Regulations No. 55, changed. (T. D. 2954.)

Article 58, Regulations No. 55, relating to coupons and interest notes, amended. (T. D. 2941.)

Conveyances.

7. Conveyances: Deed, instrument, or writing, whereby any lands, tenements, or other realty sold shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his, her or their direction, when the consideration or value of the interest or property conveyed, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, exceeds \$100 and does not exceed \$500, 50 cents; and for each additional \$500 or fractional part thereof 50 cents. This subdivision shall not apply to any instrument or writing given to secure a debt.

Entry of goods at customhouse.

8. Entry of any goods, wares, or merchandise at any customhouse, either for consumption or warehousing, not exceeding \$100 in value, 25 cents; exceeding \$100 and not exceeding \$500 in value, 50 cents; exceeding \$500 in value, \$1.

**Entry for withdrawal from customhouse.
Passage tickets.**

9. Entry for the withdrawal of any goods or merchandise from customs bonded warehouse, 50 cents.

10. Passage ticket, one way or round trip, for each passenger, sold or issued in the United States for passage by any vessel to a port or place not in the United States, Canada, or Mexico, if costing not exceeding \$30, \$1; costing more than \$30 and not exceeding \$60, \$3; costing more than \$60, \$5. This subdivision shall not apply to passage tickets costing \$10 or less.

Proxy.

11. Proxy for voting at any election for officers, or meeting for the transaction of business, of any corporation, except religious, educational, charitable, fraternal, or literary societies, or public cemeteries, 10 cents.

Power of attorney.

12. Power of attorney granting authority to do or perform some act for or in behalf of the grantor, which authority is not otherwise vested in the grantee, 25 cents. This subdivision shall not apply to any papers necessary to be used for the collection of claims from the United States or from any State for pensions, back pay, bounty, or for property lost in the military or naval service, or to powers of attorney required in bankruptcy cases.

Additional regulations, supplementing Regulations No. 55; article 147a. (T. D. 2913.)

13. Playing cards: Upon every pack of playing cards containing not more than fifty-four cards, manufactured or imported, and sold, or removed for consumption or sale, a tax of 8 cents per pack. Playing cards.

14. Parcel-post packages: Upon every parcel or package transported from one point in the United States to another by parcel post on which the postage amounts to 25 cents or more, a tax of 1 cent for each 25 cents or fractional part thereof charged for such transportation, to be paid by the consignor. Parcel-post packages.

No such parcel or package shall be transported until a stamp or stamps representing the tax due shall have been affixed thereto.

15. On each policy of insurance, or certificate, binder, covering note, memorandum, cablegram, letter, or other instrument by whatever name called whereby insurance is made or renewed upon property within the United States (including rents and profits) against peril by sea or on inland waters or in transit on land (including transshipments and storage at termini or way points) or by fire, lightning, tornado, wind-storm, bombardment, invasion, insurrection, or riot, issued to or for or in the name of a domestic corporation or partnership or an individual resident of the United States by any foreign corporation or partnership or any individual not a resident of the United States, when such policy or other instrument is not signed or countersigned by an officer or agent of the insurer in a State, Territory, or district of the United States within which such insurer is authorized to do business, a tax of 3 cents on each dollar, or fractional part thereof of the premium charged: *Provided*, That policies of re-insurance shall be exempt from the tax imposed by this subdivision. Policy of insurance, etc.

Any person to or for whom or in whose name any such policy or other instrument is issued, or any solicitor or broker acting for or on behalf of such person in the procurement of any such policy or other instrument, shall affix the proper stamps to such policy or other instrument, and for failure to affix such stamps with intent to evade the tax shall, in addition to other penalties provided therefor, pay a fine of double the amount of the tax.

Documentary stamps prepared and distributed under authority section 22, act October 22, 1914, and section 805 (a), act October 3, 1917, may be used for payment of taxes imposed by this section. (T. D. 2893.)

Regulations relating to tax on foreign insurance policies; in substitution for article 156 of Regulations No. 55. (T. D. 2891.)

The following decisions under former acts are cited for reference:

Post stamping of instruments or documents of any description mentioned in Schedule A after the expiration of twelve months from date of issue. (T. D. 21539, 1889.)

Collectors can not remit penalty for omission of stamps where the instrument was presented more than twelve months after it was issued. (T. D. 21368, July 10, 1899.)

The action of collector in stamping the instrument under section 13, act of June 13, 1898, cures the defect and operates retroactively. (T. D. 164, June 27, 1900.)

Instruments to be validated may be sent to collector by mail, with affidavit, instead of being personally brought to the collector's office. (T. D. 20696, 1889.)

Stamping and validating instruments. (T. D. 644, T. D. 749.)

Instruments requiring stamps are not competent evidence in courts unless stamped. (T. D. 21074, 1889.)

Unstamped instruments inadmissible as evidence in Federal courts. (T. D. 474.)

Stamp taxes on export bills of lading unconstitutional. (Fairbanks v. United States, 181 U. S., 283; T. D. 339.)

Tax on telephone messages. (New York Telephone Co. v. Treat, collector, 130 Fed., 340.)

Tax on telegraphic despatches. (Kirk v. Western Union Telegraph Co., 90 Fed., 809.)

Tax on sales of stocks. (United States v. Thomas, 192 U. S., 363 (T. D. 758), affirming 115 Fed., 207.)

The tax on sales of stocks was constitutional. (Christie-Street Commission Co. v. United States, 129 Fed., 506; 126 Fed., 991.)

Tax on "calls" or agreements to sell stocks. (Treat v. White, 181 U. S., 264 (T. D. 838), reversing 100 Fed., 290.)

Tax on sales of products or merchandise at exchange or boards of trade, or other similar place, and agreements to sell. (Nicol v. Ames, 173 U. S., 509, affirming 89 Fed., 144; Ingwersen v. United States, 173 U. S., 509). (The Union Stock Yards of Chicago come within the act as being an "exchange or board of trade, or other similar place.")

Tax on bonds. (Ambrosini v. United States, 187 U. S., 1 (T. D. 593), reversing 105 Fed., 239 (dramshop bonds under State laws not taxable); United States v. Owens, 100 Fed., 70 (saloonkeepers' bonds under the laws of Missouri not taxable); Bettmann v. Warwick, 108 Fed., 127 (bond of a notary as a qualification for office exempt); McNally v. Field, 119 Fed., 445.)

Tax on conveyances. (Chesebrough v. United States, 192 U. S., 253 (T. D. 747); Mastin v. Mastin, 99 Fed., 435 (T. D. 51) (deed of release executed by a receiver not liable); Central Trust Co. of New York v. Columbus & Ry. Co., 92 Fed., 919. (The deed requires stamps in proportion to the "consideration of value" of the interest transferred and not to the entire value of the property, where it is conveyed subject to encumbrances.)

Tax on bills of lading. (Fairbank v. United States, 181 U. S., 283; T. D. 339.) (Export bills of lading not taxable.)

Tax on manifests. (New York & Cuba Mail Steamship Co. v. United States, 125 Fed., 320.)

Tax on express receipts. (Crawford v. Hubbell, 177 U. S., 404 (T. D. 100), affirming 89 Fed., 961; United States v. Wells, Fargo & Co. Express, 96 Fed., 835; American Express Co. v. Michigan, 177 U. S., 404; T. D. 100.)

Tax on insurance policies. (23 Op. Atty. Gen., 210; 22 Id., 318, 376; Buckalew v. United States, 102 Fed., 320; 42 C. C. A., 373.)

Tax on orders for the payment of money. (Granby Mercantile Co. v. Webster, 98 Fed., 604; T. D. 8.)

Tax on charter parties. The tax on charter parties unconstitutional as applied to vessels engaged in the ex-

port trade. (*Hvoslef v. United States*, 237 U. S., 1 (T. D. 2186), affirming 217 Fed. 681.)

Policies of marine insurance. The stamp tax on policies of marine insurance on exported products unconstitutional as a tax on exports. (*Thames & Mersey Marine Insurance Co. v. United States*, 237 U. S., 19 (T. D. 2187), overruling 217 Fed., 683 (T. D. 2009).)

Stamps on referee's deed. Tax on deeds executed by State officers not an interference with their duties or operation of State government. (*Home Title Insurance Co. v. Keith*, collector, 230 Fed., 905; T. D. 2310.)

Stamps required on master's deed. (*Crawford*, as trustee, *v. New South Farm & Home Co.*, 231 Fed., 999; T. D. 2253.)

Powers of attorney in bankruptcy proceedings required to be stamped. (*In re Capitol Trading Co.*, 229 Fed., 806; *In the Matter of Charles A. Hawley*, 220 Fed., 372; T. D. 2145.)

Stamp tax on sales, agreements to sell, and agreements of sale. Section 22, act of October 22, 1914. Two hundred per cent penalty. Relief by injunction denied. (*Kohlhamer v. Smietanka*, 239 Fed. 408.)

Board of trade transactions. (*Calkins v. Smietanka*, 240 Fed., 138.)

Omission to attach required stamp to an instrument did not render it invalid unless omission was fraudulent or designed to evade tax. (*Campbell v. Wilcox*, 10 Wall., 421; *United States v. Buzzo*, 18 wall., 125.)

CHAPTER TWENTY-FOUR.

TAX ON EMPLOYMENT OF CHILD LABOR.

[Title XII, act of February 24, 1919 (40 Stat. 1057).]

Sec.	Sec.
1200. Excise tax on net profits of business using prohibited labor; ages, etc., designated.	1204. Yearly returns to collector.
1201. Net profits computed; deductions allowed.	1205. Assessment and payment of tax.
1202. Sales for personal benefit at less than market price; computation of gross amount.	1206. Inspection of premises; form of report; punishment for obstructing inspection.
1203. Certificates permitting child to work.	1207. "Taxable year" defined; first taxable year.

TITLE XII.—TAX ON EMPLOYMENT OF CHILD LABOR.

SEC. 1200. [*Act of February 24, 1919 (40 Stat., 1057).*] Excise tax on net profits of business using prohibited labor. Ages, etc., designated.
 That every person (other than a bona fide boys' or girls' canning club recognized by the Agricultural Department of a State and of the United States) operating (a) any mine or quarry situated in the United States in which children under the age of sixteen years have been employed or permitted to work during any portion of the taxable year; or (b) any mill, cannery, workshop, factory, or manufacturing establishment situated in the United States in which children under the age of fourteen years have been employed or permitted to work, or children between the ages of fourteen and sixteen have been employed or permitted to work more than eight hours in any day or more than six days in any week, or after the hour of seven o'clock post meridian, or before the hour of six o'clock ante meridian, during any portion of the taxable year, shall pay for each taxable year, in addition to all other taxes imposed by law, an excise tax equivalent to 10 per centum of the entire net profits received or accrued for such year from the sale or disposition of the product of such mine, quarry, mill, cannery, workshop, factory, or manufacturing establishment.

SEC. 1201. That in computing net profits under the provisions of this title, for the purpose of the tax there shall be allowed as deductions from the gross amount received or accrued for the taxable year from the sale or disposition of such products manufactured within the United States the following items: Net profits computed; deductions allowed.

(a) The cost of raw materials entering into the production; Raw materials.

(b) Running expenses, including rentals, cost of repairs, and maintenance, heat, power, insurance, management, and a reasonable allowance for salaries or other compensations for personal services actually rendered, and for depreciation; Operating expenses.

Interest on
business debts.

(c) Interest paid within the taxable year on debts or loans contracted to meet the needs of the business, and the proceeds of which have been actually used to meet such needs;

Business taxes.

(d) Taxes of all kinds paid during the taxable year with respect to the business or property relating to the production; and

Losses.

(e) Losses actually sustained within the taxable year in connection with the business of producing such products, including losses from fire, flood, storm, or other casualties, and not compensated for by insurance or otherwise.

Sales for personal benefit at less than market price.

Computation of gross amount.

SEC. 1202. That if any such person during any taxable year or part thereof, whether under any agreement, arrangement, or understanding or otherwise, sells or disposes of any product of such mine, quarry, mill, cannery, workshop, factory, or manufacturing establishment at less than the fair market price obtainable therefor either (a) in such manner as directly or indirectly to benefit such person or any person directly or indirectly interested in the business of such person; or (b) with intent to cause such benefit; the gross amount received or accrued for such year or part thereof from the sale or disposition of such product shall be taken to be the amount which would have been received or accrued from the sale or disposition of such product if sold at the fair market price.

Effect of certificate permitting child to work, etc.

SEC. 1203. (a) That no person subject to the provisions of this title shall be liable for the tax herein imposed if the only employment or permission to work which but for this section would subject him to the tax, has been of a child as to whom such person has in good faith procured at the time of employing such child or permitting him to work, and has since in good faith relied upon and kept on file a certificate, issued in such form, under such conditions and by such persons as may be prescribed by a board consisting of the Secretary, the Commissioner, and the Secretary of Labor, showing the child to be of such age as not to subject such person to the tax imposed by this title. Any person who knowingly makes a false statement or presents false evidence in or in relation to any such certificate or application therefor shall be punished by a fine of not less than \$100, nor more than \$1,000, or by imprisonment for not more than three months, or by both such fine and imprisonment, in the discretion of the court.

Punishment for false statement as to certificates, etc.

State certificates effective.

In any State designated by such board an employment certificate or other similar paper as to the age of the child, issued under the laws of that State, and not inconsistent with the provisions of this title, shall have the same force and effect as a certificate herein provided for.

Allowance for unintentional mistakes.

(b) The tax imposed by this title shall not be imposed in the case of any person who proves to the satisfaction of the Secretary that the only employment or permission

to work which but for this section would subject him to the tax, has been of a child employed or permitted to work under a mistake of fact as to the age of such child, and without intention to evade the tax.

SEC. 1204. That on or before the first day of the third month following the close of each taxable year, a true and accurate return under oath shall be made by each person subject to the provisions of this title to the collector for the district in which such person has his principal office or place of business, in such form as the Commissioner, with the approval of the Secretary, shall prescribe, setting forth specifically the gross income received or accrued during such year from the sale or disposition of the product of any mine, quarry, mill, cannery, workshop, factory, or manufacturing establishment, in which children have been employed subjecting him to the tax imposed by this title, and from the total thereof deducting the aggregate items of allowance authorized by this title, and such other particulars as to the gross receipts and items of allowance as the Commissioner, with the approval of the Secretary may require.

Yearly* returns to collector.

Contents.

SEC. 1205. That all such returns shall be transmitted forthwith by the collector to the Commissioner, who shall, as soon as practicable, assess the tax found due and notify the person making such return of the amount of tax for which such person is liable, and such person shall pay the tax to the collector on or before thirty days from the date of such notice.

Assessment and payment of tax.

SEC. 1206. That for the purposes of this Act the Commissioner, or any other person duly authorized by him, shall have authority to enter and inspect at any time any mine, quarry, mill, cannery, workshop, factory, or manufacturing establishment. The Secretary of Labor, or any person duly authorized by him, shall, for the purpose of complying with a request of the Commissioner to make such an inspection, have like authority, and shall make report to the Commissioner of inspections made under such authority in such form as may be prescribed by the Commissioner with the approval of the Secretary of the Treasury.

Inspection of premises.

Form of report.

Any person who refuses or obstructs entry or inspection authorized by this section shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than one year, or both such fine and imprisonment.

Punishment for obstructing inspection.

SEC. 1207. That as used in this title the term "taxable year" shall have the same meaning as provided for the purposes of income tax in section 200.* The first taxable year for the purposes of this title shall be the period between sixty days after the passage of this Act and December 31, 1919, both inclusive, or such portion of such period as is included within the fiscal year (as defined in section 200) of the taxpayer.

"Taxable year" defined.

First taxable year.

* See p. 473.

CHAPTER TWENTY-FIVE.

PLAYING CARDS.

[Acts of August 27, 1894 (28 Stat. 509) ; February 24, 1919 (40 Stat. 1057).]

Sec.

38. Tax of 2 cents on every pack, containing not more than fifty-four cards, whether manufactured, sold, or removed, or in stock of any dealer.
39. Adhesive stamps to be affixed to each package, and canceled by the person using the stamp; penalty, \$50.
40. Manufacturer to register with the collector of the district; failure to register, penalty \$50.
41. Stamps to be furnished by the collector to registered manufacturers and importers.
42. Penalty for counterfeiting, defacing, or removing stamp or illegal use of the same.
43. Penalty for removal or sale of playing cards without having stamp affixed; cards removed for export without previous payment of tax.

Sec.

44. Manufacturer removing or reusing any stamp, wrapper, or cover for the purpose of evading the tax liable to a fine of \$50 and forfeiture.
45. Penalty for selling or exposing for sale, removing, or concealing playing cards without having affixed the stamp thereto.
46. Every person who offers or exposes for sale any playing cards, whether of domestic or foreign manufacture, shall be deemed the manufacturer thereof and liable to the tax.
47. Assessment to be made by the Commissioner in certain cases.
1100. [Subd. 13, Schedule A, Title XI, Act of February 24, 1919.] Tax of 8 cents per pack imposed.
1102. [Act of February 24, 1919 (40 Stat., 1057).] Failure to pay tax, misdemeanor.

SEC. 38. [*Act of August 27, 1894 (28 Stat., 509).*] Tax of 2 cents upon every pack of playing cards.
That on and after the first day of August, eighteen hundred and ninety-four, there shall be levied, collected, and paid, by adhesive stamps, a tax of two cents for and upon every pack of playing cards containing not more than fifty-four cards, manufactured and sold or removed, and also upon every pack in the stock of any dealer on and after that date; and the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall make regulations as to dies and adhesive stamps.

The act of October 3, 1917, amended this section so as to impose an additional tax of 5 cents per pack, or a total of 7 cents on each pack. Subdivision 13, Schedule A, Title XI, act of February 24, 1919, amended the former laws and provided a tax of 8 cents per pack. (See p. 574.)

Where packages of playing cards are sent out from the factory duly stamped and are thereafter opened and stamp broken, the cards can not be returned to the packages and sold under a broken stamp; a new stamp must be affixed to each package and duly canceled. (T. D. 21634.)

If cards are reassembled from packs on which tax has been paid, each deck must show the requisite stamp. (United States v. Neustaedter, 149 Fed., 1010; T. D. 1100.)

Miniature playing cards, intended for use with packages of merchandise, one card to a package, must be put up in packages and properly stamped by the manufacturer. (T. D. 843.)

Tax must be paid on every pack of cards intended for use in playing games of skill or chance in lieu of ordinary playing cards. (T. D. 959.)

Tax must be paid on every pack of cards even though containing half the ordinary number of cards. (T. D. 1023.)

Affixing and
cancellation of
stamp.

SEC. 39. That in all cases where an adhesive stamp is used for denoting the tax imposed by this Act upon playing cards, except as hereinafter provided, the person using or affixing the same shall write thereon the initials of his name and the date on which such stamp is attached or used so that it may not again be used. And every person who fraudulently makes use of an adhesive stamp to denote any tax imposed by this Act without so effectually cancelling and obliterating such stamp shall forfeit the sum of fifty dollars. The Commissioner of Internal Revenue is authorized to prescribe such method for the cancellation of stamps as substitute for, or in addition to the method prescribed in this section as he may deem expedient and effectual. And he is authorized, in his discretion, to make the application of such method imperative upon the manufacturers of playing cards.

Manufacturer
to register with
collector, penalty
for failure to do
so, \$50.

SEC. 40. That every manufacturer of playing cards shall register with the collector of the district his name or style, place of residence, trade, or business, and the place where such business is to be carried on, and a failure to register as herein provided and required shall subject such person to a penalty of fifty dollars.

Where playing cards are lithographed on large sheets, and sent to another person to be cut and finished, the latter is held to be the manufacturer and required to register and stamp the cards. (T. D. 410.)

Stamps to be
kept by collec-
tors and furnis-
hed to registered
manufacturers,
importers, and
persons having
stock on hand.

SEC. 41. That the Commissioner of Internal Revenue shall cause to be prepared, for payment of the tax upon playing cards, suitable stamps denoting the tax thereon. Such stamps shall be furnished to collectors requiring them, and collectors shall, if there be any manufacturers of playing cards within their respective districts, keep on hand at all times a supply equal in amount to two months' sales thereof, and shall sell the same only to such manufacturers as have registered as required by law and to importers of playing cards, who are required to affix the same to imported playing cards, and to persons who are required by law to affix the same to stocks of playing cards on hand when the tax thereon imposed first takes effect. Every collector shall keep an account of the number and denominate values of the stamps sold by him to each manufacturer and to other persons above described.

Decision as to packing and stamping cards when sold in leather, plush, celluloid, or metal cases. (T. D. 19024, 1898.)

SEC. 42. That if any person shall forge or counterfeit, or cause or procure to be forged or counterfeited, any stamp, die, plate, or other instrument, or any part of any stamp, die, plate, or other instrument which shall have been provided or may hereafter be provided, made, or used in pursuance of the provisions of this Act or of any previous provisions of law on the same subjects, or shall forge, counterfeit, or resemble, or cause or procure to be forged, counterfeited, or resembled the impression or any part of the impression of any such stamp, die, plate, or other instrument, as aforesaid, upon any paper, or shall stamp or mark or cause or procure to be stamped or marked any paper with any such forged or counterfeited stamp, die, or plate, or other instrument or part of any stamp, die, plate, or other instrument, as aforesaid, with intent to defraud the United States of any of the taxes hereby imposed or any part thereof; or if any person shall utter, or sell, or expose to sale any paper, article, or thing having thereupon the impression of any such counterfeited stamp, die, plate, or other instrument, or any part of any stamp, die, plate, or other instrument, or any such forged, counterfeited, or resembled impression, or part of impression, as aforesaid, knowing the same to be forged, counterfeited, or resembled or if any person shall knowingly use or permit the use of any stamp, die, plate, or other instrument which shall have been so provided, made, or used, as aforesaid, with intent to defraud the United States; or if any person shall fraudulently cut, tear, or remove, or cause or procure to be cut, torn, or removed, the impression of any stamp, die, plate, or other instrument, which shall have been provided, made, or used in pursuance of this Act, or of any previous provisions of law on the same subjects, from any paper, or any instrument or writing charged or chargeable with any of the taxes imposed by law; or if any person shall fraudulently use, join, fix, or place, or caused to be used, joined, fixed, or placed, to, with, or upon any paper, or any instrument or writing charged or chargeable with any of the taxes hereby imposed, any adhesive stamp, or the impression of any stamp, die, plate, or other instrument, which shall have been provided, made, or used in pursuance of law, and which shall have been cut, torn, or removed from any other paper or any instrument or writing charged or chargeable with any of the taxes imposed by law; or if any person shall willfully remove or cause to be removed, alter or cause to be altered, the cancelling or defacing marks on any adhesive stamp, with intent to use the same, or to cause the use of the same, after it shall have been once used, or shall knowingly or willfully sell or buy such washed or restored stamps or offer the same for sale, or give or expose the same to any person for use, or knowingly use the same, or prepare the same with intent for

Penalty for counterfeiting, defacing, or removing stamp, or illegal use of same.

the further use thereof; or if any person shall knowingly and without lawful excuse (the proof whereof shall lie on the person accused) have in his possession any washed, restored, or altered stamps, which have been removed from any article, paper, instrument, or writing, then, and in every such case, every person so offending, and every person knowingly and willfully aiding, abetting, or assisting in committing any such offense as aforesaid, shall, on conviction thereof, forfeit the said counterfeit, washed, restored, or altered stamps, and the articles upon which they are placed and be punished by fine not exceeding one thousand dollars, or by imprisonment and confinement to hard labor not exceeding five years, or both, at the discretion of the court. And the fact that any adhesive stamp so bought, sold, offered for sale, used, or had in possession as aforesaid, has been washed or restored by removing or altering the cancelling or defacing marks thereon, shall be prima-facie proof that such stamp has been once used and removed by the possessor thereof from some paper, instrument, or writing charged with taxes imposed by law, in violation of the provisions of this section.

This is a substantial reenactment of section 3429, Revised Statutes, as amended by section 17, act of March 1, 1879, the only change being the substitution of the word "act" for "chapter."

Penalty for removal or sale of playing cards without having stamps affixed.

SEC. 43. That whenever any person makes, prepares, and sells or removes for consumption or sale, playing cards, whether of domestic manufacture or imported, upon which a tax is imposed by law, without affixing thereto an adhesive stamp denoting the tax before mentioned, he shall incur a penalty of fifty dollars for every omission to affix such stamp: *Provided*, That playing cards may be removed from the place of manufacture for export to a foreign country, without payment of tax or affixing stamps thereto, under such regulations and the filing of such bonds as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe.

Playing cards for export excepted.

Concerning the exportation without payment of tax of playing cards, see Regulations No. 29. See also Supplement No. 1, T. D. 1834.

Exportation of playing cards by parcels post. (T. D. 1668, T. D. 1858.)

Where a box of playing cards is opened and cards withdrawn, a new stamp must be affixed to the package before its resale. The broken stamp can not protect the package. In sending packs of cards abroad, even as samples, all the provisions of the law and regulations relating to the exportation of playing cards must be complied with, unless tax stamps are affixed to these packages. (T. D. 21609.)

Penalty for removal or reuse of stamp, wrapper, or cover for the purpose of evading the tax.

SEC. 44. That every manufacturer or maker of playing cards who, after the same are so made, and the particulars hereinbefore required as to stamps have been complied with, takes off, removes, or detaches, or causes, or

permits, or suffers to be taken off, or removed, or detached, any stamp, or who uses any stamp, or any wrapper or cover to which any stamp is affixed, to cover any other article or commodity than that originally contained in such wrapper or cover, with such stamp when first used, with the intent to evade the stamp duties, shall, for every such article, respectively, in respect of which any such offense is committed, be subject to a penalty of fifty dollars, to be recovered together with the costs thereupon accruing; and every such article or commodity as aforesaid shall also be forfeited.

SEC. 45. That every maker or manufacturer of playing cards who, to evade the tax or duty-chargeable thereon, or any part thereof, sells, exposes for sale, sends out, removes, or delivers any playing cards before the duty thereon has been fully paid, by affixing thereon the proper stamp, as provided by law, or who, to evade as aforesaid, hides or conceals, or causes to be hidden or concealed, or removes or conveys away, or deposits, or causes to be removed or conveyed away from or deposited in any place, any such article or commodity, shall be subject to a penalty of fifty dollars, together with the forfeiture of any such article or commodity.

Penalty for selling or exposing for sale, removing, or concealing playing cards without affixing the stamp.

SEC. 46. That the tax on playing cards shall be paid by the manufacturer thereof. Every person who offers or exposes for sale playing cards, whether the articles so offered or exposed are of foreign manufacture and imported or are of domestic manufacture, shall be deemed the manufacturer thereof, and subject to all the duties, liabilities, and penalties imposed by law in regard to the sale of domestic articles without the use of the proper stamps denoting the tax paid thereon, and all such articles of foreign manufacture shall, in addition to the import duties imposed on the same, be subject to the stamp tax prescribed in this Act.

Playing cards of domestic or foreign manufacture shall not be offered or exposed for sale without affixing stamp denoting payment of tax.

SEC. 47. That whenever any article upon which a tax is required to be paid by means of a stamp is sold or removed for sale by the manufacturer thereof, without the use of the proper stamp, in addition to the penalties imposed by law for such sale or removal, it shall be the duty of the Commissioner of Internal Revenue, within a period of not more than two years after such removal or sale, upon such information as he can obtain, to estimate the amount of the tax which has been omitted to be paid, and to make an assessment therefor upon the manufacturer or producer of such article. He shall certify such assessment to the collector, who shall immediately demand payment of such tax, and upon the neglect or refusal of payment by such manufacturer or producer, shall proceed to collect the same in the manner provided for the collection of other assessed taxes.

Assessment to be made within two years in certain cases.

This is a reenactment, without change, of section 3437, Revised Statutes.

Cards for game called "authors," and the like, differing wholly from ordinary playing cards, are held not to be subject to tax under this act.

It is held that any number of cards in a deck above 54 and not exceeding another of 54 must be regarded, for the purposes of this act, as belonging to another pack, upon which an additional tax of 2 cents must be paid. (40 Int. Rev. Rec., 277.)

SEC. 1100. [*Act of February 24, 1919 (40 Stat., 1057).*] That on and after April 1, 1919, there shall be levied, collected, and paid, for and in respect of the several * * * matters, and things mentioned and described in Schedule A of this title, or for or in respect of the vellum, parchment, or paper upon which such instruments, matters, or things, or any of them, are written or printed, by any person who makes, signs, issues, sells, removes, consigns, or ships the same, or for whose use or benefit the same are made, signed, issued, sold, removed, consigned, or shipped, the several taxes specified in such schedule. The taxes imposed by this section shall, in the case of any article upon which a corresponding stamp tax is now imposed by law, be in lieu of such tax.

* * * * *

SCHEDULE A.—STAMP TAXES.

* * * * *

13. Playing cards: Upon every pack of playing cards containing not more than fifty-four cards, manufactured or imported, and sold, or removed for consumption or sale, a tax of 8 cents per pack.

Regulations concerning collection of tax, and requiring monthly returns of manufacturers and importers. (T. D. 2817.)

SEC. 1102. [*Act of February 24, 1919 (40 Stat., 1057).*] That whoever—

* * * * *

(c) Manufactures or imports and sells, or offers for sale, or causes to be manufactured or imported and sold, or offered for sale, any playing cards, * * * without the full amount of tax being duly paid;

* * * * *

Is guilty of a misdemeanor and upon conviction thereof shall pay a fine of not more than \$100 for each offense.

CHAPTER TWENTY-SIX.

BANKS AND BANKERS.

Sec.

3407. Definition of words "bank" and "banker."

3408 (amended). Tax on circulation of banks and bankers.

3409. Taxes, when payable; how calculated.

3411. Circulation, when exempted from tax.

3412. Tax on notes of persons or State banks used as circulation, etc.

3413. Tax on notes of town, city, or municipal corporations paid out by banks, etc.

19. Act February 8, 1875. Tax on certain parties' own notes used for circulation and paid out by them.

Sec.

20. (Same.) Tax on circulation other than national banks used and paid out.

21. (Same.) Return of amounts and payment of tax.

3414. Banks' and bankers' monthly returns.

3415. In default of return, Commissioner to estimate, etc.

3416. State banks converted into national banks; returns, how made.

3417. Certain provisions of this chapter not to apply to national banks.

22. Act March 1, 1879. Insolvent banks exempt from tax.

SEC. 3407. Every incorporated or other bank, and every person, firm, or company having a place of business where credits are opened by the deposit or collection of money or currency, subject to be paid or remitted upon draft, check, or order, or where money is advanced or loaned on stocks, bonds, bullion, bills of exchange, or promissory notes, or where stocks, bonds, bullion, bills of exchange, or promissory notes are received for discount or for sale, shall be regarded as a bank or as a banker.

Definition of words "bank" and "banker."

Who are bankers under this section? (*Seldon v. Equitable Trust Co.*, 94 U. S. 419; 23 Int. Rev. Rec. 171; *Warren v. Shook*, 91 U. S. 704; 22 Int. Rev. Rec. 77.)

Liability of foreign banks doing business in United States. Suits to recover taxes on capital employed. (*United States v. Bank of Montreal*; 30 Int. Rev. Rec. 310; 21 Fed. 236.)

A loan and trust company regarded as a bank. (*United States v. Farmer's L. & T. Co.*, 25 Fed. Cas. No. 15070; 3 Int. Rev. Rec. 62.)

SEC. 3408. There shall be levied, collected, and paid, as hereafter provided:

* * * * *

Third. A tax of one-twelfth of one per centum each month upon the average amount of circulation issued by any bank, association, corporation, company, or person, including as circulation all certified checks and all notes and other obligations calculated or intended to circulate or to be used as money, but not including that in the

Tax on circulation.

vault of the bank, or redeemed and on deposit for said bank; and an additional tax of one-sixth of one per centum each month upon the average amount of such circulation, issued as aforesaid, beyond the amount of ninety per centum of the capital of any such bank, association, corporation, company, or person.

On circulation
of branch banks.

In the case of banks with branches, the tax herein provided shall be assessed upon the circulation of each branch severally, and the amount of capital of each branch shall be considered to be the amount allotted to it.

Taxes on deposits and capital repealed. Act of March 3, 1883. (22 Stat., 488.) The taxation ceased December 1, 1882. (29 Int. Rev. Rec., 171; 17 Op. Atty. Gen., 530.)

When the plaintiff admits that his business was that of buying and selling stocks for his customers, and that in such business he employed capital, he proves that he was a banker within the statutory definition, and that, within the meaning of section 3408, his capital was employed in the business of banking. (*Richmond v. Blake*, 132 U. S., 592; 36 Int. Rev. Rec., 24.)

The tax on circulation of national banks is paid to the Treasurer of the United States. (Sec. 5214 as amended. See sec. 3417, p. 580.)

Certificates of indebtedness issued by a person or a corporation are not taxable as "circulation" under section 3408, unless intended to circulate as money. (*United States v. Wilson*, 106 U. S., 620.)

What is capital? (*Mechanics and Farmers' Bank v. Townsend*, 5 Blatch., 315.)

Merchants Nat'l Bank v. United States, 42 Ct. Cls., 6.

Taxes, when
payable.

How calcu-
lated.

SEC. 3409. The taxes provided in the preceding section shall be paid semi-annually, on the first day of January and the first day of July; but the same shall be calculated at the rate per month as prescribed by said section, so that the tax for six months shall not be less than the aggregate would be if such taxes were collected monthly.

In regard to abating tax against insolvent national, State, and savings banks, see section 22, act of March 1, 1879 (20 Stat., 327), and Supplement, Revised Statutes No. 1, page 243. (*Johnston v. United States*, 17 Ct. Cls., 157; *Jackson v. United States*, 20 Ct. Cls., 304.) See p. 580.

Circulation,
when exempted
from tax.

SEC. 3411. Whenever the outstanding circulation of any bank, association, corporation, company, or person, is reduced to an amount not exceeding five per centum of the chartered or declared capital existing at the time the same was issued, said circulation shall be free from taxation, and whenever any bank which has ceased to issue notes for circulation deposits in the Treasury of the United States, in lawful money, the amount of its outstanding circulation, to be redeemed at par, under such regulations as the Secretary of the Treasury shall prescribe, it shall be exempt from any tax upon such circulation.

Legislation affecting taxes upon the circulation of State banks. (*Merchants National Bank v. United States*, 42 Ct. Cls., 6.)

SEC. 3412. Every national banking association, State bank, or State banking association, shall pay a tax of ten per centum on the amount of notes of any person, or of any State bank or State banking association, used for circulation and paid out by them.

Tax on notes of persons or State banks used as circulation, etc.

The act of March 3, 1875 (18 Stat., 507), provided that the Secretary of the Treasury be authorized and directed to settle and release any claims for tax on circulation of evidences of indebtedness made against any mining, manufacturing, or other corporations other than against any national banking association, State bank or banking association, by such corporations paying the tax, without penalty, that shall have accrued thereon since November 1, 1873.

Internal-revenue tax on State banks. (14 Op. Atty. Gen., 98; 16 Int. Rev. Rec., 57.)

The tax of 10 per cent on State bank circulation was designed to drive all such circulation out of existence. (Remark of the court in *Head Money Cases*, 112 U. S., 580, 596.)

SEC. 3413. Every national banking association, State bank, or banker, or association, shall pay a tax of ten per centum on the amount of notes of any town, city, or municipal corporation, paid out by them.

Tax on notes of town, city, or municipal corporations, paid out by banks, etc.

This tax not a direct tax and not repugnant to the Constitution. (*Veazie Bank v. Fenno*, 8 Wall., 533; 10 Int. Rev. Rec., 195.)

Above decision cited and approved (*National Bank v. United States*, 101 U. S., 1) where the United States sued a national bank for 10 per cent of the notes of the city of Little Rock paid out.

Tax on circulation of State banks (*Deposit Savings Association v. Marks*, 3 Woods, 533; 23 Int. Rev. Rec., 241, Fed. Cas. No. 3813).

Section 3583 provided a penalty for issuing notes for a less sum than \$1 intended to circulate as money. (*United States v. Van Auken*, 96 U. S. (6 Otto), 366; 24 Int. Rev. Rec., 204; *United States v. Roussopoulos*, 95 Fed., 977.)

Section 3583 has been reproduced in section 178 of the Criminal Code. Act of March 4, 1909. (35 Stat., 1088.)

SEC. 19. [*Act of February 8, 1875 (18 Stat. 311).*] That every person, firm, association other than national bank associations, and every corporation, State bank, or State banking association, shall pay a tax of ten per centum on the amount of their own notes used for circulation and paid out by them.

Ten per cent tax on parties, other than national banks, on their own notes used for circulation, and paid out.

SEC. 20. [*Act of February 8, 1875 (18 Stat. 311).*] That every such person, firm, association, corporation, State bank, or State banking association, and also every national banking association, shall pay a like tax of ten per centum on the amount of notes of any person, firm, association other than a national banking association, or of any corporation, State bank, or State banking association, or of any town, city, or municipal corporation, used for circulation and paid out by them.

Ten per cent tax on circulation of other than national banks used and paid out.

The main object of the Federal legislation on this subject was to secure for the national currency the exclusive use in the United States as a circulating medium; and this

object was sought to be effected by imposing upon all competitive money such a tax as would make its issue unprofitable. (21 Op. Atty. Gen., 560.)

The effect of the act of February 8, 1875, was to extend sections 3412 and 3413, which included only banks and banking associations, to all persons, firms, associations, and corporations. The subject matter of the tax, to wit, "notes used for circulation paid out by them," was the same.

Construction of sections 19 and 20, act of February 8, 1875. (21 Int. Rev. Rec., 346.)

"Wages certificates" of Philadelphia & Reading Railroad taxable. (16 Op. Atty. Gen., 341; 25 Int. Rev. Rec., 167; see Philadelphia & R. R. Co. v. Pollock, 19 Fed. 401.)

Tax limited to obligations payable in money. (Hollister v. Zion's Co-operative Mercantile Institution, 111 U. S., 62; 30 Int. Rev. Rec., 111. In re Aldrich, 16 Fed. 369.)

Glass manufacturers' cases. Warrick and Stanger were glass manufacturers and issued their notes in various amounts, from 5 cents to \$5 each, in payment of wages. These notes circulated as money, and when redeemed were constantly reissued. Every issue of the notes taxable. (United States v. Warrick, 31 Int. Rev. Rec., 327; 25 Fed. 138.)

A national bank paying out on checks and otherwise notes of a bank chartered in a foreign country is subject to tax of 10 per cent upon the total amount of all notes it has received and used as a circulating medium. (20 Op. Atty. Gen. 534.)

Notes of Canadian Banks (33 Int. Rev. Rec., 405; 34 Id., 53, 61, 77, 93 and 94; also T. D. 20507.)

A bank is not regarded as paying out Canadian bank notes when it simply sends the notes to Canada for redemption. (34 Int. Rev. Rec., 101.)

Tax on circulation of notes other than those issued by national banks applies to Canadian bank notes. (T. D. 2782.)

Notes of the Dominion of Canada not taxable. (34 Int. Rev. Rec., 61.)

Notes of State banks taxable. (T. D. 784.)

Certified checks of State banks not notes. (T. D. 885.)

Ice tickets not taxable. (19 Op. Atty. Gen. 98.)

Opinion of the Attorney General as to whether payroll checks issued by manufacturers and others, and certificates issued by clearing-house associations when used for circulation, are notes within the meaning of section 19, act of February 8, 1875. The tax applies only to promissory notes. (39 Int. Rev. Rec., 398; 29 Op. Atty. Gen. 681.)

Persons, corporations, banks, etc., purchasing from foreigners and returning tourists notes of foreign banks and corporations for resale to persons going abroad, not liable for 10 per cent tax if such notes are not used for circulation in United States. (T. D. 1041.)

Clearing-house certificates not notes within the meaning of section. (T. D. 1271.)

Return of
amounts and
payment of tax.

SEC. 21. [Act of February 8, 1875 (18 Stat. 311).]
That the amount of such circulating notes, and of the tax due thereon, shall be returned, and the tax paid at the same time, and in the same manner, and with like penalties for failure to return and pay the same, as provided by law for the return and payment of taxes on * * * circulation, imposed by the existing provisions of internal revenue law.

SEC. 3414. A true and complete return of the monthly amount of circulation, * * * as aforesaid, and of the monthly amount of notes of persons, town, city, or municipal corporation, State banks, or State banking associations paid out as aforesaid for the previous six months, shall be made and rendered in duplicate on the first day of December and the first day of June, by each of such banks, associations, corporations, companies, or persons, with a declaration annexed thereto, under the oath of such person, or of the president or cashier of such bank, association, corporation, or company, in such form and manner as may be prescribed by the Commissioner of Internal Revenue, that the same contains a true and faithful statement of the amounts subject to tax, as aforesaid; and one copy shall be transmitted to the collector of the district in which any such bank, association, corporation, or company is situated, or in which such person has his place of business, and one copy to the Commissioner of internal Revenue.

Banks' and
bankers' month-
ly returns.

The words "of deposits and of capital" are omitted in line 2 as obsolete.

SEC. 3415. In default of the returns provided in the preceding section, the amount of circulation, * * * and notes of persons, town, city, and municipal corporations, State banks, and State banking associations paid out, as aforesaid, shall be estimated by the Commissioner of Internal Revenue, upon the best information he can obtain. And for any refusal or neglect to make return and payment, any such bank, association, corporation, company, or person so in default shall pay a penalty of two hundred dollars, besides the additional penalty and forfeitures provided in other cases.

In default of
return, Commis-
sioner to esti-
mate, etc.

The words "deposits, capital" omitted in line 2.

See section 3176, page 108, as to additional penalties.

(United States v. N. Y. Guaranty Co., 8 Ben. 269, 27 Fed. Cas., No. 15, 872; 21 Op. Atty. Gen., 564.)

SEC. 3416. Whenever any State bank or banking association has been converted into a national banking association, and such national banking association has assumed the liabilities of such State bank or banking association, including the redemption of its bills, by any agreement or understanding whatever with the representatives of such State bank or banking association, such national banking association shall be held to make the required return and payment on the circulation outstanding, so long as such circulation shall exceed five per centum of the capital before such conversion of such State bank or banking association.

State banks
converted into
national banks;
returns, how
made.

This section is practically obsolete.

Certain provisions of this chapter not to apply to national banks.

Act Feb. 18, 1875 (18 Stat., 319).

SEC. 3417. The provisions of this chapter, relating to the tax on the * * circulation of banks, and to their returns, except as contained in sections * thirty-four hundred and eleven, thirty-four hundred and twelve, thirty-four hundred and thirteen, and thirty-four hundred and sixteen, and such parts of sections thirty-four hundred and fourteen, and thirty-four hundred and fifteen as relate to the tax of ten per centum on certain notes, shall not apply to associations which are taxed under and by virtue of Title "National Banks."

Indictment following language of section is sufficient, although it does not aver that tax was not paid. (*Rosenfeld v. United States*, 202 Fed., 469.)

Insolvent banks exempt from tax.

[*Act March 1, 1879 (20 Stat., 351).*] Whenever and after any bank has ceased to do business by reason of insolvency or bankruptcy, no tax shall be assessed or collected, or paid into the Treasury of the United States, on account of such bank, which shall diminish the assets thereof necessary for the full payment of all its depositors; and such tax shall be abated from such national banks as are found by the Comptroller of the Currency to be insolvent; and the Commissioner of Internal Revenue, when the facts shall so appear to him, is authorized to remit so much of said tax against insolvent State and savings banks as shall be found to affect the claims of their depositors.

CHAPTER TWENTY-SEVEN.

EXEMPTION OF LIBERTY AND OTHER BONDS FROM TAXATION.

Sec.

1. Act of April 24, 1917. First Liberty loan bonds.
7. Act of September 24, 1917. Second Liberty loan bonds.
11. (Same.) Certificates of indebtedness.
3. Act of April 4, 1918. Extension of exemption to third Liberty loan bonds.
16. Act of April 5, 1918. War Finance Corporation bonds; interest on bonds; exemption of corporation.

Sec.

3. Act of July 9, 1918. Bonds payable in foreign money.
1. Act of September 24, 1918. Interest on Liberty loan bonds.
1. Act of March 3, 1919. Exemption of second Liberty loan bonds.
2. (Same.) Exemption of interest.
4. (Same.) Exemptions as to non-residents and foreign corporations.

* * * SECTION 1. [*Act of April 24, 1917 (40 Stat., 35).*] Exemption of first Liberty loan bonds.

The bonds herein authorized shall be in such form and subject to such terms and conditions of issue, conversion, redemption, maturities, payment, and rate and time of payment of interest, not exceeding three and one-half per centum per annum, as the Secretary of the Treasury may prescribe. The principal and interest thereof shall be payable in United States gold coin of the present standard of value and shall be exempt, both as to principal and interest, from all taxation, except estate or inheritance taxes, imposed by authority of the United States, or its possessions, or by any State or local taxing authority; but such bonds shall not bear the circulation privilege.

* * * * *

Opinion of the Attorney General on the question of exemption from income tax of corporation dividends paid in the form of Liberty loan bonds. (T. D. 2512.)

Corporation dividends paid in the form of Liberty bonds not taxable; but a corporation owning these bonds not exempt from excise, franchise, and other corporation taxes. (T. D. 2512.)

Promissory notes issued on or after April 6, 1918, secured by United States bonds and obligations issued after April 24, 1917, are exempt from internal revenue stamp tax. (T. D. 2701.)

SEC. 7. [*Act of September 24, 1917 (40 Stat., 288).*] Exemption of second Liberty loan bonds.
That none of the bonds authorized by section one, nor of the certificates authorized by section five, or by section six, of this Act, shall bear the circulation privilege. All such bonds and certificates shall be exempt, both as to principal and interest from all taxation now or here-

after imposed by the United States, any State, or any of the possessions of the United States, or by any local taxing authority, except (a) estate or inheritance taxes, and (b) graduated additional income taxes, commonly known as surtaxes, and excess profits and war-profits taxes, now or hereafter imposed by the United States, upon the income or profits of individuals, partnerships, associations, or corporations. The interest on an amount of such bonds and certificates the principal of which does not exceed in the aggregate \$5,000, owned by any individual, partnership, association, or corporation, shall be exempt from the taxes provided for in subdivision (b) of this section.

SEC. 11. * * * That section two of an Act of Congress approved February fourth, nineteen hundred and ten, entitled "An Act prescribing certain provisions and conditions under which bonds and certificates of indebtedness of the United States may be issued, and for other purposes," is hereby amended to read as follows:

Exemption of certain certificates of indebtedness.

"SEC. 2. That any certificates of indebtedness hereafter issued shall be exempt from all taxes or duties of the United States (but, in the case of certificates issued after September first, nineteen hundred and seventeen, only if and to the extent provided in connection with the issue thereof), as well as from taxation in any form by or under State, municipal, or local authority; and that a sum not exceeding one-tenth of one per centum of the amount of any certificates of indebtedness issued is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to pay the expenses of preparing, advertising, and issuing the same."

Interest paid within the year on indebtedness incurred for purchase of Liberty 4 per cent bonds is deductible in computing net income subject to income surtaxes and excess profits taxes. (T. D. 2541.)

Liberty 4 per cent bonds of second series issued in exchange for Liberty 3½ per cent bonds are "obligations of the United States issued after September 1, 1917," and are not subject to tax; current earnings invested in Liberty 3½ per cent bonds are not subject to tax upon distributed net income of corporations if retained for employment in the business. (T. D. 2570.)

Interest on obligations of the United States or its possessions not to be included as income (but, in the case of obligations issued after September 1, 1917, only if and to the extent provided in the act authorizing issue thereof). (T. D. 2690.)

Income from not to exceed \$5,000 face value of Liberty bonds, Treasury certificates of indebtedness, and war-savings certificates authorized by the act of September 24, 1917, is exempt from all income and war excess profits taxes. (T. D. 2585.)

Exemption of third Liberty loan bonds.

SEC. 3 [Act of April 4, 1918 (40 Stat., 502, 504.)] That section four of said Act approved September twenty-

fourth, nineteen hundred and seventeen, is hereby amended by adding two new paragraphs as follows:

"That holders of bonds bearing interest at a higher rate than four per centum per annum, whether issued (a) under section one, or (b) upon conversion of four per centum bonds issued under section one, or (c) upon conversion of three and one-half per centum bonds issued under said Act approved April twenty-fourth, nineteen hundred and seventeen, or (d) upon conversion of four per centum bonds issued upon conversion of such three and one-half per centum bonds, shall not be entitled to any privilege of conversion under or pursuant to this section or otherwise. The provisions of section seven shall extend to all such bonds. * * *"

SEC. 16. [*Act of April 5, 1918 (40 Stat., 506).*] That any and all bonds issued by the Corporation shall be exempt, both as to principal and interest, from all taxation now or hereafter imposed by the United States, any State, or any of the possessions of the United States, or by any local taxing authority, except (a) estate or inheritance taxes, and (b) graduated additional income taxes, commonly known as surtaxes, and excess-profits and war-profits taxes, now or hereafter imposed by the United States, upon the income or profits of individuals, partnerships, corporations, or associations. The interest on an amount of such bonds the principal of which does not exceed in the aggregate \$5,000 owned by any individual, partnership, corporation, or association, shall be exempt from the taxes referred to in clause (b). The Corporation, including its franchise and the capital and reserve or surplus thereof, and the income derived therefrom, shall be exempt from all taxation now or hereafter imposed by the United States, any State, or any of the possessions of the United States, or by any local taxing authority, except that any real property of the Corporation shall be subject to State, county, or municipal taxes to the same extent, according to its value, as other real property is taxed.

Exemption of bonds issued by War Finance Corporation.

Exemption of interest on bonds.

Exemption of Corporation.

* * *
SEC. 3. [*Act of July 9, 1918 (40 Stat., 844).*] That notwithstanding the provisions of the Second Liberty Bond Act, as amended by the Third Liberty Bond Act, or of the War Finance Corporation Act, bonds and certificates of indebtedness of the United States payable in any foreign money or foreign moneys, and bonds of the War Finance Corporation payable in any foreign money or foreign moneys exclusively or in the alternative, shall, if and to the extent expressed in such bonds at the time of their issue, with the approval of the Secretary of the Treasury, while beneficially owned by a nonresident alien individual, or by a foreign corporation, partnership, or association, not engaged in business in the

Exemption of Liberty loan bonds and War Finance Corporation bonds.

United States, be exempt both as to principal and interest from any and all taxation now or hereafter imposed by the United States, any State, or any of the possessions of the United States, or by any local taxing authority.

Exemption of
interest on Lib-
erty loan bonds.

SECTION 1. [*Act of September 24, 1918 (40 Stat., 965).*] * * * That until the expiration of two years after the date of the termination of the war between the United States and the Imperial German Government, as fixed by proclamation of the President—

(1) That interest on an amount of bonds of the fourth Liberty loan the principal of which does not exceed \$30,000, owned by any individual, partnership, association, or corporation, shall be exempt from graduated additional income taxes, commonly known as surtaxes, and excess and war profits taxes, now or hereafter imposed by the United States, upon the income or profits of individuals, partnerships, associations, or corporations;

(2) The interest received after January 1, 1918, on an amount of bonds of the first Liberty loan converted, dated either November 15, 1917, or May 9, 1918, the second Liberty loan, converted and unconverted, and the third Liberty loan, the principal of which does not exceed \$15,000 in the aggregate, owned by any individual, partnership, association, or corporation, shall be exempt from such taxes: *Provided, however,* That no owner of such bonds shall be entitled to such exemption in respect to the interest on an aggregate principal amount of such bonds exceeding one and one-half times the principal amount of bonds of the fourth Liberty loan originally subscribed for by such owner and still owned by him at the date of his tax return; and

(3) The interest on an amount of bonds, the principal of which does not exceed \$30,000, owned by any individual, partnership, association, or corporation, issued upon conversion of $3\frac{1}{2}$ per centum bonds of the first Liberty loan in the exercise of any privilege arising as a consequence of the issue of bonds of the fourth Liberty loan, shall be exempt from such taxes.

The exemption provided in this section shall be in addition to the exemption provided in section 7 of the second Liberty bond act in respect to the interest on an amount of bonds and certificates, authorized by such act and amendments thereto, the principal of which does not exceed in the aggregate \$5,000, and in addition to all other exemptions provided in the second Liberty bond act.

Regulations with reference to exemption of interest on Liberty bonds held or subscribed for by trustees, partnerships and corporations under supplement to second Liberty bond act. (T. D. 2762.)

SECTION 1. [*Act of March 3, 1919 (40 Stat., 1309).*] That the Second Liberty Bond Act is hereby amended by adding thereto a new section to read as follows:

SEC. 18. (a) * * *

(b) The notes herein authorized may be issued in any one or more of the following series as the Secretary of the Treasury may prescribe in connection with the issue thereof: Exemption of second Liberty loan bonds.

(1) Exempt, both as to principal and interest, from all taxation (except estate or inheritance taxes) now or hereafter imposed by the United States, any State, or any of the possessions of the United States, or by any local taxing authority;

(2) Exempt, both as to principal and interest, from all taxation now or hereafter imposed by the United States, any State, or any of the possessions of the United States, or by any local taxing authority, except (a) estate or inheritance taxes, and (b) graduated additional income taxes, commonly known as surtaxes, and excess-profits and war-profits taxes, now or hereafter imposed by the United States, upon the income or profits of individuals, partnerships, associations, or corporations;

(3) Exempt, both as to principal and interest, as provided in paragraph (2); and with an additional exemption from the taxes referred to in clause (b) of such paragraph, of the interest on an amount of such notes the principal of which does not exceed \$30,000, owned by any individual, partnership, association, or corporation; or

(4) Exempt, both as to principal and interest, from all taxation now or hereafter imposed by the United States, any State, or any of the possessions of the United States, or by any local taxing authority, except (a) estate or inheritance taxes, and (b) all income, excess-profits, and war-profits taxes, now or hereafter imposed by the United States, upon the income or profits of individuals, partnerships, associations, or corporations.

* * * * *

SEC. 2. (a) That until the expiration of five years after the date of the termination of the war between the United States and the German Government, as fixed by proclamation of the President, in addition to the exemptions provided in section 7 of the Second Liberty Bond Act in respect to the interest on an amount of bonds and certificates, authorized by such Act and amendments thereto, the principal of which does not exceed in the aggregate \$5,000, and in addition to all other exemptions provided in the Second Liberty Bond Act or the Supplement to Second Liberty Bond Act, the interest received on and after January 1, 1919, on an amount of bonds of the First Liberty Loan Converted, dated November 15, 1917, May 9, 1918, or October 24, 1918, the Second Liberty Loan converted and unconverted, the Third Liberty Loan, and the Fourth Liberty Loan, the principal of which does not exceed \$30,000 in Exemption of interest.

the aggregate, owned by any individual, partnership, association, or corporation, shall be exempt from graduated additional income taxes, commonly known as surtaxes, and excess-profits and war-profits taxes, now or hereafter imposed by the United States, upon the income or profits of individuals, partnerships, associations, or corporations.

(b) In addition to the exemption provided in subdivision (a), and in addition to the other exemptions therein referred to, the interest received on and after January 1, 1919, on an amount of the bonds therein specified the principal of which does not exceed \$20,000 in the aggregate, owned by any individual, partnership, association, or corporation, shall be exempt from the taxes therein specified: *Provided*, That no owner of such bonds shall be entitled to such exemption in respect to the interest on an aggregate principal amount of such bonds exceeding three times the principal amount of notes of the Victory Liberty Loan originally subscribed for by such owner and still owned by him at the date of his tax return.

SEC. 3. * * *

SEC. 4. That section 8 of the Fourth Liberty Bond Act is hereby amended to read as follows:

Exemptions as to nonresidents and foreign corporations.

"SEC. 3. That, notwithstanding the provisions of the Second Liberty Bond Act or of the War Finance Corporation Act or of any other Act, bonds, notes, and certificates of indebtedness of the United States and bonds of the War Finance Corporation shall, while beneficially owned by a nonresident alien individual, or a foreign corporation, partnership, or association, not engaged in business in the United States, be exempt both as to principal and interest from any and all taxation now or hereafter imposed by the United States, any State, or any of the possessions of the United States or by any local taxing authority."

Circular relating to tax exemptions of Liberty bonds and Victory notes. (T. D. 2836.)

For purposes of additional tax exemption for Liberty bonds and Victory notes of either series issued upon conversion of Victory notes of the other series which were originally subscribed for by any taxpayer will be deemed to have been originally subscribed for by such taxpayer. (T. D. 2857.)

Interest on 4½ per cent Victory notes converted into 3½ per cent Victory notes, and on 3½ Victory notes converted into 4½ Victory notes. (T. D. 2865.)

CHAPTER TWENTY-EIGHT.

PROVISIONS COMMON TO SEVERAL OBJECTS OF TAXATION.

- Sec.
3441. Repealed.
3442. Obsolete.
3443. Fraudulent claims for drawback; penalty.
3444. Collector's monthly account of articles in bonded warehouses and articles exported.
3445. Stamps, instruments for attaching, canceling, etc.
- 3446 (amended). Power to alter or change stamps, marks, labels, etc.
1. Act of August 15, 1876. Stamps to be sent to officers by mail, registered.
3447. Where mode of assessing or collecting tax is not provided for; regulations authorized.
3448. Internal-revenue laws, when co-extensive with jurisdiction of United States.
3449. Removing liquors under other than the proper name known to the trade; penalty.
3450. Removing or concealing articles with intent to defraud; forfeiture and penalty.
3451. Fraudulently executing documents; penalty.
3452. Having property in possession with intent to sell in fraud of law or to evade taxes; penalty.
3453. Property found in possession in fraud of revenue laws; forfeiture.
3454. Sales to evade tax; forfeiture.
3455. Disposing of or receiving or making empty stamped packages; penalties.
3456. Penalty and forfeiture by distillers, etc., for omitting things required and for doing things forbidden.
3457. Packages included in forfeiture of goods.
3458. Goods seized may be delivered to marshal before process issues, etc.
3459. Bonding of goods seized.
3460. Proceedings on seizure of goods valued at \$500 or less.
3461. Application for remission.
3462. Search warrants.
- 1-23. Act June 15, 1917—Title XI. Same.
3463. Informers' rewards.
1. Act of July 1, 1913. Appropriation for detecting frauds.
3464. Purchasing for the Government goods subject to tax.

- Sec.
- 2062 (amended). Foreign war vessels.
- 3423 (amended). Articles for exportation, manufactured in bonded warehouses.
- IV. Par. M, act of October 3, 1913. Manufacturer of articles intended for exportation in bonded warehouses.
20. Act of March 1, 1879, as amended by act of May 28, 1880. Withdrawal of spirits by manufacturer of cordials, etc.
15. Act of May 28, 1880. Allowance for leakage.
3434. Superseded by Par. M, Sec. IV, act of October 3, 1913.
- IV. Par. O, act of October 3, 1913. Drawback equal to tax on domestic alcohol used in medicinal and toilet preparations.
- IV. Par. P, act of October 3, 1913. Articles reimported on which no revenue tax was paid, or, if paid, was refunded.
3465. Construction of act March 2, 1833.
- Act of August 13, 1894, amended. Guarantee corporation may be accepted as sole surety on recognizances, stipulations, bonds, and undertakings.
1320. Act of February 24, 1919. Liberty or other United States bonds in lieu of surety bonds.
- Act of August 5, 1909. Bonds from surety companies; joint commission.
5. Legislative, executive, and judicial appropriation act of March 2, 1895. Official bonds.
- 1, 2. Act of August 8, 1888. Notice of deficiency in accounts of principals to be given to sureties upon bonds of United States officials; limitation of time within which suits shall be brought against sureties.
- Legislation relative to Hawaii, Porto Rico, the Philippines, and the Virgin Islands.
- Provisions of act of February 24, 1919, of general application:
1. Definitions.
1305. Laws part of act; returns on notice from Commissioner; examination of books, etc.

Sec.

Provisions of act of February 24, 1919, of general application—Continued.

- 1306. Floor taxes; returns; time for payment; extension of time.
- 1307. Mode of collecting taxes; stamp taxes.
- 1308. Failure to pay, collect account for and pay over tax or to make return or supply information.
- 1309. Rules and regulations; attestation to certain returns.
- 1310. Credit of overpayments or overcollections; payment of taxes on sales on credit; taxes on article sold or leased for export.
- 1311. Use of existing stamps.

Sec.

Provisions of act of February 24, 1919, of general application—Continued.

- 1312. Payment of taxes by vendee or lessee in certain cases.
- 1313. Fractional part of cent disregarded.
- 1314. Certificates of indebtedness, etc., receivable in payment of certain taxes.
- 1318. Jurisdiction of district courts; issue of writs.
- 1319. False statements as to tax in connection with sales or leases.
- 1400. Repeal of acts.
- 1402. Effect of partial invalidity of act.
- 1405. Citation of act.
- 1408. Copies of contracts with United States.
- 1409. Effective date of act.

SEC. 3441. Relative to drawback on fermented liquors; repealed by act of June 18, 1890 (26 Stat., 162). See page 317.

SEC. 3442. Obsolete by repeal of section 3441.

Fraudulent claims for drawback; penalty.

SEC. 3443. Whenever any person fraudulently claims or seeks to obtain an allowance of drawback on goods, wares, or merchandise on which no internal duty shall have been paid, or fraudulently claims any greater allowance of drawback than the tax actually paid as aforesaid, he shall forfeit triple the amount wrongfully or fraudulently claimed or sought to be obtained, or the sum of five hundred dollars, at the election of the Secretary of the Treasury.

Section 3330, page 281, provides a penalty in the case of fraudulent claims for drawback on spirits, and section 25, act of February 8, 1875 (p. 391), in the case of fraudulent claims for drawback on tobacco.

Drawback is now allowed on distilled spirits, page 279; tobacco, snuff, cigars, cigarettes, page 393; and stills, page 164.

No drawback is allowed upon spirits bottled in bond, page 294.

Drawback allowed on articles shipped to the Philippines or Porto Rico, page 625.

Collector's monthly account of articles in bonded warehouses and articles exported.

SEC. 3444. Every collector who has charge of any warehouse in which distilled spirits, or other articles, are stored in bond, shall render a monthly account of all such articles to the Commissioner of Internal Revenue, by whom such account shall be examined and adjusted monthly, so as to exhibit a true statement of the responsibility of such collector thereon. In adjusting such account, the collector shall be charged with all the articles

which may have been deposited or received under the provisions of law, in any warehouse in his district and under his control, and shall be credited with all such articles shown to have been removed therefrom according to law, including transfers to other collectors and to his successor in office, and also whatever allowances may have been made in accordance with law to any owner of such goods or articles for leakage or other losses.

And every collector from whose district any distilled spirits, tobacco, snuff, or cigars are shipped in bond, under the provisions of this Title, shall render a monthly account of the same to the Commissioner of Internal Revenue, showing the amount of each article produced and shipped in bond, the amounts of which the exportation is completed according to law, and the amount remaining unaccounted for at the end of each month; also any excesses or deficiencies on the amounts originally reported as shipped.

SEC. 3445. The Commissioner of Internal Revenue may make such change in stamps, and may prescribe such instruments or other means for attaching, protecting, and canceling stamps, for tobacco, snuff, cigars, distilled spirits, and fermented liquors, or either of them, as he and the Secretary of the Treasury shall approve; such instruments to be furnished by the United States to the person using the stamps to be affixed therewith, under such regulations as the Commissioner of Internal Revenue may prescribe.

Changes of stamps, instruments for attaching, protecting, and canceling.

Regulations under this section have the force of law. (15 Op. Atty. Gen., 191.)

Rubber stamps may be used instead of stencils for canceling strip stamps on cigar boxes. (Circular letter, October 15, 1897; 43 Int. Rev. Rec., 385.)

SEC. 3446. [*Amended by sec. 18, act of March 1, 1879 (20 Stat., 327).*] The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may establish and, from time to time, alter or change the form, style, character, material, and device of any stamp, mark, or label used under any provision of the laws relating to internal revenue. Such stamps shall be attached, protected, removed, canceled, obliterated, and destroyed, in such manner and by such instruments or other means as he, with the approval of the Secretary of the Treasury, may prescribe; and he is hereby authorized and empowered to make, with the approval of the Secretary of the Treasury, all needful regulations relating thereto; and all pains, penalties, fines, and forfeitures now provided by law relating to internal-revenue stamps shall apply to and have full force and effect in relation to any and all stamps which may or shall be so established by the Commissioner of Internal Revenue:

Power to establish, alter, or change internal-revenue stamps, marks, or labels, etc.

Penalties.

Provided, Such stamps or device or instrument or means of removal or obliteration, shall entail no addi-

Expense.

tional expense upon the persons required to affix or use the same.

See section 321, page 51, as to authority of Commissioner to provide stamps, etc.

Stamps for special taxes, section 3238, page 156; for distilled spirits, section 3312, page 268; for imitation wines, page 325; for fermented liquors, section 3341, page 316; for tobacco, section 3360, page 383; for cigars, section 3396, page 406; for oleomargarine, section 8, act of August 2, 1886, amended, page 433. See appropriate sections for other articles.

The portraits of living persons upon internal-revenue stamps not prohibited by section 3576, R. S., but their exclusion therefrom is in consonance with its spirit. (14 Op. Atty. Gen., 528.)

Hamilton-Brooks cigar stamp. (16 Op. Atty. Gen., 444; 26 Int. Rev. Rec., 33; 17 Op. Atty. Gen., 111.)

Use of the Hunter stamp. (15 Op. Atty. Gen., 191.)

Fletcher's invention. (11 Ct. Cls., 748.)

Alleged infringement of patent. (Fletcher v. Blake, 131 U. S., cxviii appendix; 27 Int. Rev. Rec., 6; Hollister v. Benedict & Burnham Manufacturing Co., 113 U. S., 59; 31 Int. Rev. Rec., 30; Solomons v. United States, 22 Ct. Cls., 335.)

Stamps for spirits, beer, tobacco, snuff, and cigars are not legitimate articles of traffic. (11 Int. Rev. Rec., 57; Amer. Brewing Co. v. United States, 33 Ct. Cls., 351.)

Public policy forbids the sale of official stamps uncanceled which have become obsolete. (28 Op. Atty. Gen., 201.)

Stamps to be sent to officers by mail, registered.

SEC. 1. [Act August 15, 1876 (19 Stat., 152).] * * *

And hereafter the transmission of internal revenue stamps to the officers of the internal revenue service shall be made through the mails of the United States in registered packages. * * *

Internal-revenue stamps may be mailed to collectors and stamp deputy collectors or returned by them to the Commissioner in full packages without regard to the 4-pound limit of weight. (T. D. 18947.)

Delivery of stamps to be made directly to taxpayer. (T. D. 2504.)

Where mode of assessing or collecting any tax is not provided for; regulations.

SEC. 3447. Whenever the mode or time of assessing or collecting any tax which is imposed is not provided for, the Commissioner of Internal Revenue may establish the same by regulation. He may also make all such regulations, not otherwise provided for, as may have become necessary by reason of any alteration of law in relation to internal revenue.

Spreckels Sugar Refining Co. v. McClain. (113 Fed., 244; T. D. 462; 109 Fed., 76; T. D. 350; Herold v. Kahn, 159 Fed., 608.)

Internal - revenue laws, when coextensive with jurisdiction of United States.

SEC. 3448. The internal-revenue laws imposing taxes on distilled spirits, fermented liquors, tobacco, snuff, and cigars shall be held to extend to such articles produced anywhere within the exterior boundaries of the United States, whether the same be within a collection district or not.

Indian Territory: The Cherokee Tobacco (Boudinot's factory). (11 Wall., 616; 14 Int. Rev. Rec., 11.)

In this case the Supreme Court ruled that the Indian Territory was included in the general terms of this section,

notwithstanding any prior treaty, and that the provisions of the internal-revenue law as to distilled spirits, fermented liquors, and tobacco were applicable therein.

Liquor dealers in Indian Territory. (22 Int. Rev. Rec., 109; 23 Id., 125; *United States v. Forty-three Gallons of Whiskey*, 108 U. S., 491; 29 Int. Rev. Rec., 188.)

Special-tax stamps, being only receipts for taxes paid, may be issued by the collector of internal revenue, notwithstanding acts of Congress relative to sale of liquors in the Indian Territory. (T. D. 18911.)

Section 2141, Revised Statutes, provides as follows: "Every person who shall, within the Indian country, set up or continue any distillery for manufacturing ardent spirits shall be liable to a penalty of one thousand dollars; and the superintendent of Indian affairs, Indian agent, or subagent, within the limit of whose agency any distillery of ardent spirits is set up or continued, shall forthwith destroy and break up the same."

The Attorney General, in an opinion rendered October 4, 1898, held that the establishment of a distillery in the Indian Territory, notwithstanding it was on land to which the Indian title was extinct, would be in contravention of law. (T. D. 20162; 22 Op. Atty. Gen., 232.)

Oklahoma and Indian Territory to form a State government. Act June 16, 1906. (34 Stat., 267.) Oklahoma admitted as a State November 16, 1907. (35 Stat., 2161.)

Introduction of liquor into the Indian country from points outside the State of Oklahoma forbidden. (*United States v. Wright*, 229 U. S., 226; T. D. 1856.)

Alaska added to Oregon district December 27, 1872.

Alaska, case of Savaloff (17 Int. Rev. Rec., 20); case of Stephens (28 Id., 194).

Alaska act to prohibit manufacture and sale of intoxicating liquors, act February 14, 1917. (T. D. 2466.)

An act to define and punish crimes in the District of Alaska and to provide a code of criminal procedure for said district. (Act of March 3, 1899, 30 Stat., 1253.)

Section 477 provides: "That nothing in this act shall in any way repeal, conflict, or interfere with the public general laws of the United States imposing taxes on the manufacture and sale of intoxicating liquors for the purpose of revenue and known as the 'internal-revenue laws.'"

The act of June 6, 1900 (31 Stat., 321), makes further provision for civil government in Alaska.

Philippine Islands (24 Op. Atty. Gen., 120).

Internal-revenue laws not extended to Canal Zone. (T. D. 1116.)

The Canal Zone is not one of the possessions of the United States within the meaning of the tariff act of 1909. (27 Op. Atty. Gen., 595.)

Canal Zone is a territory under the jurisdiction of the United States. (30 Op. Atty. Gen., 271.)

The Constitution of the United States has not been extended to Guam. (25 Op. Atty. Gen., 61.)

Section 24 of Criminal Code distinguished. (T. D. 2487.)

Manufacture and sale of alcoholic liquors in Alaska prohibited. (T. D. 2466.)

SEC. 3449. Whenever any person ships, transports, or removes any spirituous or fermented liquors or wines, under any other than the proper name or brand known to the trade as designating the kind and quality of the contents of the casks or packages containing the same, or causes such act to be done, he shall forfeit said liquors or

Removing any liquors or wines under other than trade names; penalty.

wines, and casks or packages, and be subject to pay a fine of five hundred dollars.

Construction of this section in case of shipment of spirits under a false designation. (Attorney General Taft's letter to Secretary of the Treasury; 22 Int. Rev. Rec., 281.)

Section 3449 was passed to prevent frauds on the revenue and to assist revenue officers in discovering such frauds. It has no reference to marks or brands placed upon packages by Government officers. (Woolner & Co. v. Rennick, 170 Fed., 662; T. D. 1425.)

When spirituous liquors contained in bottles are packed in barrels and shipped and the barrels are marked "groceries," such shipment is a violation of this section. (United States v. Liquor Dealers' Supply Co., 156 Fed., 219; T. D. 1292.)

When spirituous liquors contained in bottles are packed in barrels and shipped, and the barrels are not marked, but described in bill of lading as "drugs," such shipment is a violation of section 3449. The matter of intent is immaterial. (Charge to the jury in United States v. Robert Stevenson & Co.; T. D. 1644.)

The requirements of this statute can not be limited to distillers, manufacturers, and rectifiers, as its language covers all persons who ship, transport, or remove liquors or wines. (United States v. Camp et al., Northern District of California, 89 Fed., 697.) See 133 Fed. 910 (T. D. 844) for later decision of Cir. Ct. of appeals.

Section 3449 not unconstitutional because in some cases it incidentally acts as a protection to trade-marks. (United States v. Loeb, 49 Fed., 636; 88 Int. Rev. Rec., 78.)

The term "package," as used in section 3449, includes every box, barrel, or other receptacle into which distilled spirits have been placed for shipment or removal, either in quantity or in separate small packages, as bottles or jugs. (United States v. 132 Packages of Spirituous Liquors and Wines, circuit court of appeals, 76 Fed., 364; 42 Int. Rev. Rec., 438.)

Packages of less than 5 gallons marked "Glass, this side up with care." Section 3449 does not apply. (United States v. Twenty Boxes of Corn Liquor, 123 Fed., 135; 133 Id., 910; T. D. 844.)

"J. D. Iler's Rochester Tonic." (United States v. J. D. Iler Brewing Co., 121 Fed., 41; T. D. 630.)

Shipping liquors under other than name as known to the trade. (T. D. 956; T. D. 1035; T. D. 1846.)

United States v. Sandefuhr (145 Fed. 49).

See provisions of the criminal code as to marking spirits. Appendix, page 681.

Instructions to officers. (T. D. 2437.)

Shipment of malt extract. (T. D. 1444.)

Shipment of beverages, classed as fermented malt liquors, under proprietary names, a violation of section 3449, R. S. (T. D. 1846.)

Removing or
concealing arti-
cles with intent
to defraud
United States of
tax.

SEC. 3450. Whenever any goods or commodities for or in respect whereof any tax is or shall be imposed, or any materials, utensils, or vessels proper or intended to be made use of for or in the making of such goods or commodities are removed, or are deposited or concealed in any place, with intent to defraud the United States of such tax, or any part thereof, all such goods and commodities, and all such materials, utensils, and vessels, respectively, shall be forfeited; and in every such case all the casks, vessels, cases, or other packages whatsoever, containing, or which shall have contained, such goods or

commodities, respectively, and every vessel, boat, cart, carriage, or other conveyance whatsoever, and all horses or other animals, and all things used in the removal or for the deposit or concealment thereof, respectively, shall be forfeited.

And every person who removes, deposits, or conceals, or is concerned in removing, depositing, or concealing any goods or commodities for or in respect whereof any tax is or shall be imposed, with intent to defraud the United States of such tax or any part thereof, shall be liable to a fine or penalty of not more than five hundred dollars. And all boilers, stills, or other vessels, tools and implements, used in distilling or rectifying, and forfeited under any of the provisions of this Title, and all condemned material, together with any engine or other machinery connected therewith, and all empty barrels, and all grain or other material suitable for distillation, shall, under the direction of the court in which the forfeiture is recovered, be sold at public auction, and the proceeds thereof, after deducting the expenses of sale, shall be disposed of according to law. Penalty and forfeiture.

And all spirits or spirituous liquors which may be forfeited under the provisions of this Title, unless herein otherwise provided, shall be disposed of by the Commissioner of Internal Revenue as the Secretary of the Treasury may direct. Spirits forfeited; how disposed of.

An unofficial person may seize property as forfeited to the United States, and the Government, if it chooses, may adopt the seizure and make it the basis of legal proceedings.

A proceeding by the Government to enforce the forfeiture by legal process is a confirmation of the seizure. (13 Op. Atty. Gen., 253, 256; *The Caledonian*, 4 Wheat., 90, 102; *Gelston v. Hoyt*, 16 Wheat., 245, 310; *Taylor v. United States*, 3 How., 197, 204.)

Circular No. 224, relative to destruction of spirits. (26 Int. Rev. Rec., 105.)

Rights of mortgagee. (*United States v. Two Barrels Whisky*, 96 Fed. 479; *United States v. One Bay Horse*, 128, Id., 207.)

In statutory offenses a guilty intent is not necessarily an ingredient. (*United States v. One Black Horse*, 129 Fed., 167.)

The illegal acts of agents or employees work forfeiture of property. (*Bush v. United States*, 24 Fed., 917; 31 Int. Rev. Rec., 305; *United States v. Stowell*, 133 U. S., 1; 36 Int. Rev. Rec., 80; *United States v. 7 Barrels Distilled Oil*, 6 Blatch., 174; Fed. Cas. No. 16253.)

In *Pilcher v. Faircloth*, 135 Ala., 311, action to recover for the conversion of two mules seized and sold by the collector, the Supreme Court of Alabama held that the forfeiture took effect immediately upon the commission of the act, and the defendant by purchase at the collector's sale acquired title.

Mules and a wagon, hired for the purpose of hauling produce to market, are forfeited when employed by the bailee in the removal of spirits in violation of law, although the owner had no information that his property would be employed in an unlawful purpose. (*United States v. Two Bay Mules*, 36 Fed., 84.)

Guilty knowledge of owner that property was to be used for unlawful purpose not necessary to subject the property

to forfeiture. (*United States v. 248½ Pounds Tobacco*, 103 Fed., 791; *United States v. Patented Machines*, 99 Fed., 559; T. D. 54.)

Automobile used by employee of owner in removing distilled spirits on which tax had not been paid, with intent to defraud, was subject to forfeiture, though employee was innocent of any wrong. (*United States v. Mincey*, 254 Fed., 287.)

Automobile used in removing liquor on which tax has not been paid, with intent to defraud Government of tax, is subject to forfeiture. (*United States v. One Saxon Automobile*, 257 Fed., 251; T. D. 2789.)

Vehicle or animal committed by owner to possession of third person, who uses it in removal of goods or commodities to defraud United States of tax imposed thereon, is subject to forfeiture though owner had no knowledge of illegal use. (*Logan v. United States*, 260 Fed., 746.)

Fraudulently executing documents required by internal-revenue laws; penalty.

SEC. 3451. Every person who simulates or falsely or fraudulently executes or signs any bond, permit, entry, or other document required by the provisions of the internal-revenue laws, or by any regulation made in pursuance thereof, or who procures the same to be falsely or fraudulently executed, or who advises, aids in, or connives at such execution thereof, shall be imprisoned for a term not less than one year nor more than five years; and the property to which such false or fraudulent instrument relates shall be forfeited.

See section 28, act March 4, 1909 (Criminal Code), page 679, in appendix, penalties for forging, altering, counterfeiting affidavits, bonds, public records, etc.

Fraudulent Form 122 forfeits spirits to which it relates. (Thacher, claimant of 102 packages of distilled spirits, *v. United States*, 103 U. S. (13 Otto), 679, affirming 15 Blatch., 15; 27 Int. Rev. Rec., 144.)

Having property in possession with intent to sell in fraud of law, or to evade taxes; penalty.

SEC. 3452. Every person who shall have in his custody or possession any goods, wares, merchandise, articles, or objects on which taxes are imposed by law, for the purpose of selling the same in fraud of the internal-revenue laws, or with design to avoid payment of the taxes imposed thereon, shall be liable to a penalty of five hundred dollars or not less than double the amount of taxes fraudulently attempted to be evaded.

United States v. Grotenkemper (2 Bond, 140; 26 Fed. Cas., 45.)

Seizure of property found in possession in fraud of revenue laws; forfeitures.

SEC. 3453. All goods, wares, merchandise, articles, or objects, on which taxes are imposed, which shall be found in the possession, or custody, or within the control of any person, for the purpose of being sold or removed by him in fraud of the internal-revenue laws, or with design to avoid payment of said taxes, may be seized by the collector or deputy collector of the proper district, or by such other collector or deputy collector as may be specially authorized by the Commissioner of Internal Revenue for that purpose, and shall be forfeited to the United States. And all raw materials found in the possession of any person intending to manufacture the same into articles of a kind subject to tax for the purpose of fraudulently

selling such manufactured articles, or with design to evade the payment of said tax; and all tools, implements, instruments, and personal property whatsoever, in the place or building, or within any yard or inclosure where such articles or raw materials are found, may also be seized by any collector or deputy collector, as aforesaid, and shall be forfeited as aforesaid. The proceedings to enforce such forfeitures shall be in the nature of a proceeding in rem in the circuit court or district court of the United States for the district where such seizure is made.

Personal property in the same inclosure with an illicit still. (*United States v. Quantity of Rags*, 7 Int. Rev. Rec., 123; Fed. Cas., 16103.)

Property liable to forfeiture without any regard to the misconduct of owner. (*United States v. Distillery at Spring Valley*, 11 Blatch., 255; 25 Fed. Cas., 854; 18 Int. Rev. Rec., 59, and decisions cited under sec. 3281, p. 227.)

Mixture or confusion of fraud spirits with others. (*The Distilled Spirits (Harrington's)*, 11 Wall., 356; 13 Int. Rev. Rec., 193; 10 Id., 164. *United States v. One Still*, 5 Blatch., 403; 5 Int. Rev. Rec., 189.)

An acquittal in a criminal prosecution is a bar to a proceeding in rem when the offense is the same. (*Coffee v. United States*, 116 U. S., 436; 32 Int. Rev. Rec., 38.)

Forfeiture not a bar to prosecution for crime committed. (*Wood v. United States*, 204 Fed., 55; T. D. 1836.)

Effect of conviction. (*United States v. 71 Barrels Whiskey*. T. D. 1836.)

An action for a pecuniary penalty is not a bar to a criminal prosecution when the law provides for both. (*United States v. Trobe*, 2 Int. Rev. Rec., 133; Fed. Cas., 16541.)

The acquittal of a defendant under indictment not a bar to an action on bond to recover the amount due the Government. (*United States v. Jaedicke*, 73 Fed., 100. See also *United States Fidelity and Guaranty Co. v. United States*, 150 Fed., 554.)

Where stock of goods upon which floor tax has not been paid is depleted in such manner as will result in jeopardizing collection of taxes due thereon same should be seized without awaiting result of distraint proceedings. (T. D. 2648.)

The United States is not estopped by verdict of acquittal from proceeding in a civil action for the tax. (*United States v. Schneider*, 35 Fed., 107.)

Acquittal bar to civil action for penalty. (*United States v. Seattle Brewing & Malting Co.*, 135 Fed., 597.)

Oleomargarine. (*United States v. One Bay Horse*, 123 Fed., 207.)

Burden of proof: There is a distinction between civil and criminal cases in respect to the degree or quantum of evidence necessary to justify the jury in finding their verdict. In civil cases their duty is to find for the party in whose favor it preponderates. Innocence is presumed in a criminal case until the contrary is proven; but the presumption of innocence as probative evidence is not applicable in civil cases nor in revenue seizures. (*Lillenthal's Tobacco v. United States*, 97 U. S., 237; 24 Int. Rev. Rec., 60.)

Proceedings for forfeiture are civil, not criminal proceedings. (*United States v. Three Tons of Coal*, 21 Int. Rev. Rec., 251.)

The expression "in fraud of the internal-revenue laws" means in violation of the internal-revenue laws. (*A Quantity of Tobacco and Cigars*, 5 Ben., 407, Fed. Cas. No. 11500.)

Reports of seizure on Form 117 to be made promptly. (T. D. 147; 1357.)

Seizures not to be made on suspicion. (T. D. 1543.)

Notice to shippers. (T. D. 585.)

Property needed as evidence should be retained. (United States v. Wilson, 103 Fed., 344.)

The court has no power to return goods seized by a revenue officer against which no proceedings for forfeiture have been instituted. (United States v. Hee, 219 Fed., 1019; T. D. 2191.)

An in rem suit is a civil proceeding. Preponderance of evidence only required. (Grain Distillery No. 8, etc., v. United States, 204 Fed., 429; T. D. 1837.)

Sales to evade tax; forfeiture.

SEC. 3454. Whenever any person who is liable to pay any tax upon any goods, wares, or merchandise, sells or causes or allows the same to be sold before the tax is paid to which said property is liable, with intent to avoid such tax, or in fraud of the internal-revenue laws, any debt contracted in such sales, and any security given therefor, unless the same shall have been bona fide transferred to an innocent holder, shall be void, and the collection thereof shall not be enforced in any court. And if such goods, wares, or merchandise have been paid for, in whole or in part, the sum so paid shall be deemed forfeited, and any person who shall sue for the same in an action of debt shall recover from the seller the amount so paid, one-half to his own use and the other half to the use of the United States.

Molality.

Disposing of or receiving empty stamped packages, etc.; penalties.

SEC. 3455. Whenever any person sells, gives, purchases, or receives any box, barrel, bag, vessel, package, wrapper, cover, or envelope of any kind, stamped, branded, or marked in any way so as to show that the contents or intended contents thereof have been duly inspected, or that the tax thereon has been paid, or that any provision of the internal-revenue laws has been complied with, whether such stamping, branding, or marking may have been a duly authorized act or may be false and counterfeit, or otherwise without authority of law, said box, barrel, bag, vessel, package, wrapper, cover, or envelope being empty, or containing anything else than the contents which were therein when said articles had been so lawfully stamped, branded, or marked by an officer of the revenue, he shall be liable to a penalty of not less than fifty nor more than five hundred dollars. And every person who makes, manufactures, or produces any box, barrel, bag, vessel, package, wrapper, cover, or envelope, stamped, branded, or marked, as above described, or stamps, brands, or marks the same, as hereinbefore recited, shall be liable to penalty as before provided in this section. And every person who violates the foregoing provisions of this section, with intent to defraud the revenue, or to defraud any person, shall be liable to a fine of not less than one thousand nor more than five thousand dollars, or to imprisonment for not less than six months nor more than five years, or to both, at the discretion of the court. And all articles sold, given, purchased, received, made,

Manufacturing, etc., such packages.

manufactured, produced, branded, stamped, or marked in violation of the provisions of this section, and all their contents, shall be forfeited to the United [States]. Verbal error corrected.

A person can not buy a package containing distilled spirits, already stamped and branded, and take out the contents and put in other distilled spirits of a lower proof, without rendering the property subject to forfeiture. (*United States v. Nine Casks and Packages of Distilled Spirits*, 51 Fed., 191.)

Empty cigar boxes. (T. D. 873.)

The phrase "anything else" in section 3455 does not include substances that are not in themselves taxable. (*United States v. A. Graf Distilling Co.*, 208 U. S., 198; T. D. 1304.) For decisions in lower courts see 129 Fed., 329, and 125 Fed., 52; T. D. 701.

Proceedings for forfeiture—evidence. (*Corbin & Co. v. United States*, 181 Fed., 296; 104 C. C. A., 278).

SEC. 3456. If any distiller, rectifier, wholesale liquor dealer, or manufacturer of tobacco or cigars, shall knowingly or willfully omit, neglect, or refuse to do or cause to be done any of the things required by law in the carrying on or conducting of his business, or shall do anything by this Title prohibited, if there be no specific penalty or punishment imposed by any other section of this Title for the neglecting, omitting or refusing to do, or for the doing or causing to be done the thing required or prohibited, he shall pay a penalty of one thousand dollars; and if the person so offending be a distiller, rectifier, or wholesale liquor dealer, all distilled spirits or liquors owned by him or in which he has any interest as owner, and if he be a manufacturer of tobacco or cigars, all tobacco or cigars found in his manufactory shall be forfeited to the United States. Penalty and forfeiture by distillers, rectifiers, wholesale liquor dealers and manufacturers of tobacco or cigars, for omitting things required, and for doing things forbidden.

Act Feb. 27, 1877. (19 Stat., 240.)
Verbal error corrected.

United States v. Two hundred Barrels Whisky (95 U. S., 571; 24 Int. Rev. Rec., 3). *United States v. One hundred and thirty-three Casks of Distilled Spirits* (11 Int. Rev. Rec., 191). *United States v. One thousand four hundred and twelve Gallons Distilled Spirits* (10 Blatch., 428; 17 Int. Rev. Rec., 86). *United States v. One Rectifying Establishment* (11 Int. Rev. Rec., 45; Fed. Cas. No. 15952).

This section was not intended to cumulate or increase punishment. (*United States v. Four thousand eight hundred Gallons of Spirits*, 13 Int. Rev. Rec., 52.)

Intent. (*Felton v. United States*, 96 U. S., 699; 24 Int. Rev. Rec., 252.)

Meaning of the words "knowingly and willfully." (A Quantity of Distilled Spirits, etc., 3 Ben., 552; Fed. Cas. No. 11495; 10 Int. Rev. Rec., 206; 11 Id., 8.)

The guilty intent to be determined by the facts and circumstances. A person intends the natural and probable consequences of acts intentionally done. (*Agnew v. United States*, 165 U. S., 57.)

SEC. 3457. In every case where any goods or commodities are forfeited under any internal-revenue law, all casks, vessels, cases, or other packages whatsoever, containing, or which shall have contained such goods or commodities, respectively, shall be forfeited. Package included in forfeiture of goods.

SEC. 3458. Any goods, wares, merchandise, articles, or objects which may be seized, under the provisions of sec- Goods seized may be delivered to marshal before process issues.

Cost of seizure.

Whisky, tobacco, etc., sold on distraint, forfeiture, etc., marks, brands, and stamps to be affixed by officer.

tion thirty-four hundred and fifty-three, by any collector or deputy collector, may, at the option of the collector, be delivered to the marshal of the district, and remain in the care and custody and under the control of said marshal, until he shall obtain possession by process of law. And the cost of seizure made before process issues shall be taxable by the court. And where any whisky or tobacco, or other article of manufacture or produce, requiring brands, stamps, or marks of whatever kind to be placed thereon shall be sold upon distraint, forfeiture, or other process provided by law, the same not having been branded, stamped, or marked, as required by law, the officer selling the same shall, upon sale thereof, fix or cause to be affixed the brands, stamps, or marks, so required, and deduct the expense thereof from the proceeds of such sale.

Stamping tobacco, snuff, or cigars sold under distraint or forfeited. (Sec. 3369, p. 383.)

Destruction of forfeited tobacco, snuff, or cigars which will not sell for a price equal to the tax. (Sec. 3369, p. 383.)

Provision where spirits will not sell for price equal to tax. (Secs. 3334, p. 288, 3450, p. 592; Regulations No. 2, revised, p. 47.)

Property sold under distraint. (Sec. 3191, p. 121.)

Collectors should be careful to render to the clerk of the court their bill of costs as soon as the marshal takes possession of the property, or very soon thereafter, which expenses are payable from appropriation "Salaries, fees, and expenses of marshals, United States courts." (XIII Comp. Dec. 316.)

Payment of expenses of collectors in seizure cases: Expenses incurred by a collector of internal revenue in the care of property seized for violation of law and turned over to the marshal under the provisions of section 3458 are payable from the appropriation for "Miscellaneous expenses. Internal-Revenue Service." (15 Compt. Dec. 782; T. D. 1506.)

Payment of expenses of marshals: Expenses incurred by a marshal in the care of property turned over to him by a collector under the provisions of section 3458, when taxed by the court, are payable from the appropriation for "Salaries, fees, and expenses of marshals, United States courts," even though all proceedings be compromised under the provisions of sections 3229 and 3230, Revised Statutes. (T. D. 1507.)

The provision allowing the court to tax in favor of the collector the costs of seizure made before process issues may be properly construed to cover any necessary expenses of watching property seized by a collector for such time as shall necessarily elapse between the seizure by the collector and the seizure by the marshal under process; but it can not be extended to cover a charge for custody during an unreasonable delay. (Fifteen Empty Barrels, etc., 1 Ben., 125.)

Bonding perishable goods seized, etc.

Sec. 3459. When any property which is seized under the foregoing provisions of section thirty-four hundred and fifty-three is liable to perish or become greatly reduced in price or value by keeping, or when it can not be kept without great expense, the owner thereof, or the marshal of the district, may apply to the collector of the district to examine it; and if, in the opinion of the said collector, it

shall be necessary that the said property should be sold to prevent such waste or expense, he shall appraise the same; and thereupon the owner shall have said property returned to him upon giving bond in such form as may be prescribed by the Commissioner of Internal Revenue, and in an amount equal to the appraised value, with such sureties as the collector shall deem good and sufficient, to abide the final order, decree, or judgment of the court having cognizance of the case, and to pay the amount of said appraised value to the collector, marshal, or otherwise, as he may be ordered and directed by the court, which bond shall be filed by said collector with the United States district attorney for the district in which said proceedings in rem may be commenced: *Provided*, That in case said bond shall have been executed and the property returned before seizure thereof by virtue of the process aforesaid, the marshal shall give notice of pendency of proceedings in court to the parties executing said bond, by personal service or publication, and in such manner and form as the court may direct, and the court shall thereupon have jurisdiction of said matter and parties in the same manner as if such property had been seized by virtue of the process aforesaid. But if said owner shall neglect or refuse to give said bond, the collector shall issue to a deputy collector or to the marshal aforesaid an order to sell the same; and the deputy collector or marshal shall thereupon advertise and sell the said property at public auction in the same manner as goods may be sold on final execution in said district; and the proceeds of the sale, after deducting the reasonable costs of the seizure and sale, shall be paid to the court aforesaid, to abide its final order, decree, or judgment.

Sale for want of bond.

See section 3331, page 286, as to release of distilleries.

Form of bond authorized by section 3459 for release of property seized under section 3453, Revised Statutes. (Regulations No. 12. revised, p. 50.)

Instructions as to acceptance of bond. (T. D. 2511.)

United States *v.* Ninety-two Barrels (Fed. Cas., No. 15892; 8 Blatch., 480.) United States *v.* 17 Empty Barrels (3 Dill., 285; Fed. Cas., No. 16255; 21 Int. Rev. Rec., 391.) United States *v.* A lot of Leaf Tobacco (2 Ben., 76; Fed. Cas. No. 15627; 6 Int. Rev. Rec., 222.) United States *v.* 59,650 Cigars (T. D., 992.)

The court has power to release on bond independent of any statute. (United States *v.* 300 Barrels of Whiskey, 2 Int. Rev. Rec., 165; Fed. Cas. No. 16510. But see United States *v.* Chas. Hee, T. D. 2191.)

SEC. 3460. In all cases of seizure of any goods, wares, or merchandise, as being subject to forfeiture under any provision of the internal-revenue laws, which, in the opinion of the collector or deputy collector making the seizure, are of the appraised value of five hundred dollars or less, the said collector or deputy collector shall, except in cases otherwise provided, proceed as follows:

Proceedings on seizure of goods valued at \$500 or less.

List and appraisalment.

First. He shall cause a list containing a particular description of the goods, wares, or merchandise seized to be prepared in duplicate, and an appraisalment thereof to be made by three sworn appraisers, to be selected by him, who shall be respectable and disinterested citizens of the United States residing within the collection-district wherein the seizure was made. Said list and appraisalment shall be properly attested by the said collector or deputy collector and the said appraisers, for which service each of the said appraisers shall be allowed the sum of one dollar and fifty cents a day, to be paid in the manner provided by law for other necessary charges of collectors.

Notice of seizure.

Second. If the said goods are found by the said appraisers to be of the value of five hundred dollars or less, the said collector or deputy collector shall publish a notice for three weeks, in some newspaper of the district where the seizure was made, describing the articles, and stating the time, place, and cause of their seizure, and requiring any person claiming them to appear and make such claim within thirty days from the date of the first publication of such notice.

Claim to be filed.

Third. Any person claiming the goods, wares, or merchandise so seized, within the time specified in the notice, may file with the said collector or deputy collector a claim, stating his interest in the articles seized, and may execute a bond to the United States in the penal sum of two hundred and fifty dollars, with sureties to be approved by the said collector or deputy collector, conditioned that, in case of condemnation of the articles so seized, the obligors shall pay all the costs and expenses of the proceedings to obtain such condemnation; and upon the delivery of such bond to the collector or deputy collector, he shall transmit the same, with the duplicate list or description of the goods seized, to the United States district attorney for the district, and said attorney shall proceed thereon in the ordinary manner prescribed by law.

Sale of goods and disposal of proceeds.

Fourth. If no claim is interposed and no bond is given within the time above specified, the collector or deputy collector, as the case may be, shall give ten days' notice of the sale of the goods, wares, or merchandise by publication, and, at the time and place specified in the notice, shall sell the articles so seized at public auction, and, after deducting the expense of appraisalment and sale, he shall deposit the proceeds to the credit of the Secretary of the Treasury.

Instructions as to the mode of procedure under this section. (Regulations, No. 2, revised, p. 131.)

Instructions as to disposition of property seized. (Cir. No. 580; T. D. 209.)

Instructions in regard to reports. (T. D. 623.)

The gross amount of proceeds of sale to be covered into the Treasury. (Act of May 27, 1908, 35 Stat., 325;

T. D. 1373; Cir. 725, amended by act of May 10, 1916, p. 129).

Provision relative to spirits which will not sell for price equal to the tax. (Sec. 3334, p. 288.)

The law provides that the gross amount of all collections shall be paid into the Treasury. (22 Compt. Dec., 338.)

Expediting disposition of property detained for violation of law. (T. D. 1357.)

Report of sales. (T. D. 1696.)

SEC. 3461. Within one year after the sale of any goods, wares, or merchandise, as provided in the preceding section, any person claiming to be interested in the property sold may apply to the Secretary of the Treasury for a remission of the forfeiture thereof, or of any part thereof, and a restoration of the proceeds of the sale; and the said Secretary may grant the same upon satisfactory proof, to be furnished in such manner as he shall prescribe: *Provided*, That it shall be satisfactorily shown that the applicant, at the time of the seizure and sale of the said property, and during the intervening time, was absent, out of the United States, or in such circumstances as prevented him from knowing of the seizure, and that he did not know of the same; and also that the said forfeiture was incurred without willful negligence or any intention of fraud on the part of the owner of said property. If no application for such restoration is made within one year, as hereinbefore prescribed, the Secretary of the Treasury shall, at the expiration of the said time, cause the proceeds of the sale of the said property to be distributed according to law, as in the case of goods, wares, or merchandise condemned and sold pursuant to the decree of a competent court.

Application for remission and return of proceeds; distribution.

SEC. 3462. The several judges of the circuit and district courts of the United States, and commissioners of the circuit courts, may, within their respective jurisdictions, issue a search warrant, authorizing any internal-revenue officer to search any premises within the same, if such officer makes oath in writing that he has reason to believe, and does believe, that a fraud upon the revenue has been or is being committed upon or by the use of the said premises.

Search warrants.

24 Op. Atty. Gen., 685.

Although the search warrant may have been improvidently issued, the evidence obtained by means of the search is not inadmissible. (*Ripper v. United States*, T. D. 1609.)

Seizure of private papers. (*United States v. Willson*, 163 Fed., 338; *United States v. Abrams*, 230 Fed., 313; *Adams v. New York*, 192 U. S., 585.)

Seizures and searches—private papers. (*May v. United States*, 109 Fed., 53; T. D. 1798.)

Private papers seized—returned. (*United States v. Friedberg*, 233 Fed., 314; *Weeks v. United States*, 232 U. S., 383; T. D. 1964.)

Actions against a collector for wrongful seizure. (*Kercheval v. Allen*, 220 Fed., 262.)

AN ACT To * * * better enforce the criminal laws of the United States, and for other purposes.—June 15, 1917 (40 Stat., 217, 228).

TITLE XI.

SEARCH WARRANTS.

Officials authorized to issue.

SECTION 1. A search warrant authorized by this title may be issued by a judge of a United States district court, or by a judge of a State or Territorial court of record, or by a United States commissioner for the district wherein the property sought is located.

Grounds for, designated.

SEC. 2. A search warrant may be issued under this title upon either of the following grounds:

For property stolen or embezzled.

1. When the property was stolen or embezzled in violation of a law of the United States; in which case it may be taken on the warrant from any house or other place in which it is concealed, or from the possession of the person by whom it was stolen or embezzled, or from any person in whose possession it may be.

Used to commit a felony.

2. When the property was used as the means of committing a felony; in which case it may be taken on the warrant from any house or other place in which it is concealed, or from the possession of the person by whom it was used in the commission of the offense, or from any person in whose possession it may be.

To unlawfully aid a foreign government.

3. When the property, or any paper, is possessed, controlled, or used in violation of section twenty-two of this title; in which case it may be taken on the warrant from the person violating said section, or from any person in whose possession it may be, or from any house or other place in which it is concealed.

Descriptive affidavit required.

SEC. 3. A search warrant can not be issued but upon probable cause, supported by affidavit, naming or describing the person and particularly describing the property and the place to be searched.

Examination before issue.

SEC. 4. The judge or commissioner must, before issuing the warrant, examine on oath the complainant and any witness he may produce, and require their affidavits or take their depositions in writing and cause them to be subscribed by the parties making them.

Facts to be established.

SEC. 5. The affidavits or depositions must set forth the facts tending to establish the grounds of the application or probable cause for believing that they exist.

Issue to qualified officer.

SEC. 6. If the judge or commissioner is thereupon satisfied of the existence of the grounds of the application or that there is probable cause to believe their existence, he must issue a search warrant, signed by him with his name of office, to a civil officer of the United States duly authorized to enforce or assist in enforcing any law thereof, or to a person so duly authorized by the President of the United States, stating the particular grounds or probable cause for its issue and the names of the persons whose affidavits have been taken in support thereof, and commanding him forthwith to search the person

Statement of grounds.

or place named, for the property specified, and to bring it before the judge or commissioner.

SEC. 7. A search warrant may in all cases be served by any of the officers mentioned in its direction, but by no other person, except in aid of the officer on his requiring it, he being present and acting in its execution. Service restricted to designated officer.

SEC. 8. The officer may break open any outer or inner door or window of a house, or any part of a house, or anything therein, to execute the warrant, if, after notice of his authority and purpose, he is refused admittance. Forcing entrance to execute.

SEC. 9. He may break open any outer or inner door or window of a house for the purpose of liberating a person who, having entered to aid him in the execution of the warrant, is detained therein, or when necessary for his own liberation. Use of force to liberate server, etc.

SEC. 10. The judge or commissioner must insert a direction in the warrant that it be served in the daytime, unless the affidavits are positive that the property is on the person or in the place to be searched, in which case he may insert a direction that it be served at any time of the day or night. Time of service restricted.

SEC. 11. A search warrant must be executed and returned to the judge or commissioner who issued it within ten days after its date; after the expiration of this time the warrant, unless executed, is void. Limit for execution and return.

SEC. 12. When the officer takes property under the warrant, he must give a copy of the warrant together with a receipt for the property taken (specifying it in detail) to the person from whom it was taken by him, or in whose possession it was found; or, in the absence of any person, he must leave it in the place where he found the property. Receipt for property taken.

SEC. 13. The officer must forthwith return the warrant to the judge or commissioner and deliver to him a written inventory of the property taken, made publicly or in the presence of the person from whose possession it was taken, and of the applicant for the warrant, if they are present, verified by the affidavit of the officer at the foot of the inventory and taken before the judge or commissioner at the time, to the following effect: "I, R. S., the officer by whom this warrant was executed, do swear that the above inventory contains a true and detailed account of all the property taken by me on the warrant." Return of warrant and delivery of property to judge, etc.

SEC. 14. The judge or commissioner must thereupon, if required, deliver a copy of the inventory to the person from whose possession the property was taken and to the applicant for the warrant. Copies of inventory.

SEC. 15. If the grounds on which the warrant was issued be controverted, the judge or commissioner must proceed to take testimony in relation thereto, and the testimony of each witness must be reduced to writing and subscribed by each witness. Proceedings if issue controverted.

SEC. 16. If it appears that the property or paper taken is not the same as that described in the warrant or that Restoration if erroneously taken.

Retention, etc.,
if probable cause
shown.

there is no probable cause for believing the existence of the grounds on which the warrant was issued, the judge or commissioner must cause it to be restored to the person from which it was taken; but if it appears that the property or paper taken is the same as that described in the warrant and that there is probable cause for believing the existence of the grounds on which the warrant was issued, then the judge or commissioner shall order the same retained in the custody of the person seizing it or to be otherwise disposed of according to law.

Final disposi-
tion.

SEC. 17. The judge or commissioner must annex the affidavits, search warrant, return, inventory, and evidence, and if he has not power to inquire into the offense in respect to which the warrant was issued he must at once file the same, together with a copy of the record of his proceedings, with the clerk of the court having power to so inquire.

Punishment for
obstructing, etc.,
service.

SEC. 18. Whoever shall knowingly and willfully obstruct, resist, or oppose any such officer or person in serving or attempting to serve or execute any such search warrant, or shall assault, beat, or wound any such officer or person, knowing him to be an officer or person so authorized, shall be fined not more than \$1,000 or imprisoned not more than two years.

Punishment for
perjury.
Vol. 35, p.
1111.

SEC. 19. Sections one hundred and twenty-five and one hundred and twenty-six of the Criminal Code of the United States shall apply to and embrace all persons making oath or affirmation or procuring the same under the provisions of this title, and such persons shall be subject to all the pains and penalties of said sections.

Punishment for
maliciously pro-
curing warrant.

SEC. 20. A person who maliciously and without probable cause procures a search warrant to be issued and executed shall be fined not more than \$1,000 or imprisoned not more than one year.

Punishment for
exceeding author-
ity, etc., in exe-
cuting.

SEC. 21. An officer who in executing a search warrant willfully exceeds his authority, or exercises it with unnecessary severity, shall be fined not more than \$1,000 or imprisoned not more than one year.

Punishment for
illegally posses-
sing papers, etc.,
in aid of foreign
Government.

SEC. 22. Whoever, in aid of any foreign Government, shall knowingly and willfully have possession of or control over any property or papers designed or intended for use or which is used as the means of violating any penal statute, or any of the rights or obligations of the United States under any treaty or the law of nations, shall be fined not more than \$1,000 or imprisoned not more than two years, or both.

Existing laws
not impaired.

SEC. 23. Nothing contained in this title shall be held to repeal or impair any existing provisions of law regulating search and the issue of search warrants.

Detection and
punishment of
frauds.

SEC. 3463. The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is authorized to pay such sums, not exceeding in the ag-

gregate the sum appropriated therefor, as he may deem necessary for detecting and bringing to trial and punishment persons guilty of violating the internal-revenue laws, or conniving at the same, in cases where such expenses are not otherwise provided for by law.

Molesties repealed, section 39, act of June 6, 1872. (17 Stat., 258.) "Sanborn contract," under act of May 8, 1872 (17 Stat., 69), was repealed June 22, 1874. (18 Stat., 192.)

Construction of offer of \$300 reward and Circular No. 99 and its revisions. (15 Op. Atty. Gen., 88 (Pierpont); *Williams v. United States*, 12 Ct. Cls., 193; *Briggs v. United States*, 15 Ct. Cls., 48.)

As to marshal or deputy marshal receiving reward. A contract to pay a reward for the arrest of a felon is valid if not made with a public officer or employee on whom the law imposes the duty of making such arrest, or with some officer or employee otherwise excluded from the right to receive such reward. (*Hutsel Amarine's case*, 2 Lawrence Dec., 545; 28 Int. Rev. Rec., 21.)

The payment of a reward to an officer for services within the scope of his official duties is contrary to public policy. (*Matthews & Gunn v. United States*, 32 Ct. Cls., 123.)

Contingent fees to be paid to guides and posse men. (T. D. 2245.)

The authority conferred upon the Attorney General by the act of March 3, 1891 (26 Stat., 985), to offer rewards for the detection and prosecution of crimes against the United States, preliminary to the indictment, empowered him to authorize the marshal of the northern district of Florida to offer a reward for the arrest and delivery of a person accused of the committal of a crime against the United States in that district, the reward to be paid upon conviction; and a deputy marshal, who had complied with all the conditions of the offer and of the statute, was entitled to receive the amount of the reward offered. (*United States v. Matthews*, 173 U. S., 381.)

Eager v. United States, 35 Ct. Cls., 447.

Effect of repeal of act allowing molesties on informer's claim for information given prior to repeal. (*United States v. Connor*, 138 U. S., 61.)

Rewards for information leading to the detection and punishment of persons violating internal-revenue laws. (Circular, Int. Rev. No. 99, 4th revision; T. D. 21856; Regulations, No. 12, revised, page 51; T. D. 1873; T. D. 2229.)

Commissioner authorized to offer a reward for the recovery of taxes evaded. (15 Op. Atty. Gen., 133; 22 Int. Rev. Rec., 229.)

Authority of Commissioner to bind the Government by promising to pay for information. Informer who receives less than 10 per cent can not recover the difference in the Court of Claims. (*Green v. United States*, 17 Ct. Cls., 238; 28 Int. Rev. Rec., 208.)

Right of Commissioner and Secretary to fix amount of reward. (*E. D. Crane v. United States*, 34 Int. Rev. Rec., 414; 23 Ct. Cls., 94.)

In the matter of the authority of persons employed under section 3463 to visit, enter into, and examine distilleries, etc. (4 Lawrence Dec., 60.)

SEC. 1. [Act of July 1, 1918 (40 Stat., 642).] Punishment for violations of internal-revenue laws: For detecting and bringing to trial and punishment persons guilty of violating the internal-revenue laws or conniving at the

A p p r o p r i a t i o n
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same, including payments for information and detection of such violations, \$175,000.

Legislative, executive, and judicial appropriation act approved July 3, 1918 (40 Stat., 779), provided that not more than \$500,000 may be expended from that act for detecting and bringing to trial persons guilty of violating the internal revenue laws.

Rewards for information. (24 Compt. Dec., 430.)

Expenses of deputy marshals in locating and raiding stills. (17 Compt. Dec., 1018.)

The employment of counsel to assist officials of Department of Justice can not be paid from this appropriation. (22 Compt. Dec., 230.)

It is the right of every private citizen of the United States to inform a marshal of the United States, or his deputy, of a violation of the internal-revenue laws; this right is secured by the Constitution; and a conspiracy to injure, oppress, threaten, or intimidate him in the free exercise or enjoyment of this right, or because of his having exercised it, is punishable under sec. 5508, Revised Statutes (superseded by sec. 19 Criminal Code, act March 4, 1909.) (In re Quarles and Butler, 158 U. S., 532.)

In *Worthington v. Scribner*, 109 Mass., 487, the principle was laid down that it is the duty of every citizen to communicate to his Government any information which he has of the commission of an offense against its laws; and that a court of justice will not compel or allow such information to be disclosed, either by the subordinate officer to whom it is given, by the informer himself, or by any other person, without the permission of the Government, the evidence being excluded not for the protection of the witness or of the party in the particular case, but upon general grounds of public policy, because of the confidential nature of such communications. The authorities are collected and reviewed in that case. (*Vogel v. Gruaz*, 110 U. S., 311.)

Compensation of possemen. (T. D. 1513; T. D. 1873.)

Purchasing for
the Government
goods subject to
tax.

SEC. 3464. The privilege of purchasing supplies of goods imported from foreign countries for the use of the United States, duty free, which now does or hereafter shall exist by provision of law, shall be extended, under such regulations as the Secretary of the Treasury may prescribe, to all articles of domestic production which are subject to tax by the provisions of this Title.

26 Op. Atty. Gen., 449. (*United States v. Mullins*, 119 Fed., 334.)

Section 16 of the act of June 26, 1884 (commonly called the shipping act), as amended by section 14 of the act of July 24, 1897 (30 Stat., 151), provides:

"That all articles of foreign or domestic production needed and actually withdrawn from bonded warehouses and bonded manufacturing warehouses for supplies (not including equipment) of vessels of the United States engaged in foreign trade, or in trade between the Atlantic and Pacific ports of the United States, may be so withdrawn from said bonded warehouses, free of duty or of internal-revenue tax, as the case may be, under such regulations as the Secretary of the Treasury may prescribe; but no such article shall be landed at any port of the United States."

Regulations in pursuance of the above provisions September 24, 1897, Department circular No. 155. (T. D. 18379; T. D. 18643; T. D. 19262.) Articles 410 to 414, both inclusive, Customs Regulations, 1915.

The immunity from liability to tax is limited to the actual contents of the packages. (Op. Atty. Gen., 30 Int. Rev. Rec., 94; Id., 101; 33 Int. Rev. Rec., 269.)

Withdrawal of distilled spirits from bonded warehouse for use of the United States, free of tax, under provisions of section 3464, Regulations No. 7, revised, p. 252. (T. D. 1832; T. D. 1889; T. D. 2653.)

The law extends the exemption only to cases covered by the regulations. If the regulations are not complied with and goods are delivered without regard thereto, the tax must be paid, and having been paid can not be refunded. (T. D. 2785.)

Withdrawal of alcohol. (T. Ds. 1734, 1767, 1845.)

SEC. 2982. [*Amended by sec. 21, act of August 5, 1909 (36 Stat., 88), and reenacted, act of October 3, 1913, sec. IV, Par. K (38 Stat., 197).*] The privilege of purchasing supplies from public warehouses, free of duty, and from bonded manufacturing warehouses, free of duty or of internal-revenue tax, as the case may be, shall be extended, under such regulations as the Secretary of the Treasury shall prescribe, to the vessels of war of any nation in ports of the United States which may reciprocate such privileges toward the vessels of war of the United States in its ports. Foreign vessels. war

Customs Regulations (1915), article 415.

SEC. 3433. [*Amended by sec. 10, act of October 1, 1890 (26 Stat., 614).*] All medicines, preparations, compositions, perfumery, cosmetics, cordials, and other liquors manufactured wholly or in part of domestic spirits, intended for exportation, as provided by law, in order to be manufactured and sold or removed, without being charged with duty, and without having a stamp affixed thereto, shall, under such regulations as the Secretary of the Treasury may prescribe, be made and manufactured in warehouses similarly constructed to those known and designated in Treasury regulations as bonded warehouses, class two: *Provided*, That such manufacturer¹ shall first give satisfactory bonds to the collector of internal revenue for the faithful observance of all the provisions of law and the regulations as aforesaid, in amount not less than half of that required by the regulations of the Secretary of the Treasury from persons allowed bonded warehouses. Such goods, when manufactured in such warehouses, may be removed for exportation, under the direction of the proper officer having charge thereof, who shall be designated by the Secretary of the Treasury, without being charged with duty, and without having a stamp affixed thereto. Certain articles intended for exportation to be manufactured in bonded warehouses.
Regulations.
Bonds.
Removing goods.

Any manufacturer of the articles aforesaid, or of any of them, having such bonded warehouse as aforesaid, shall be at liberty, under such regulations as the Secretary of the Treasury may prescribe, to convey therein any materials to be used in such manufacture which are allowed Articles and materials used in warehouse.

¹ This word "manufacturer" is erroneously printed "manufactory" in Revised Statutes, edition of 1878.

by the provisions of law to be exported free from tax or duty, as well as the necessary materials, implements, packages, vessels, brands, and labels for the preparation, putting up, and export of the said manufactured articles; and every article so used shall be exempt from the payment of stamp and excise duty by such manufacturer.

Articles and materials so to be used may be transferred from any bonded warehouse in which the same may be, under such regulations as the Secretary of the Treasury may prescribe, into any bonded warehouse in which such manufacture may be conducted, and may be used in such manufacture, and when so used shall be exempt from stamp and excise duty; and the receipt of the officer in charge, as aforesaid, shall be received as a voucher for the manufacture of such articles.

Use of imported materials in bond.

Any materials imported into the United States may, under such rules as the Secretary of the Treasury may prescribe, and under the direction of the proper officer, be removed in original packages from on shipboard, or from the bonded warehouse in which the same may be, into the bonded warehouse in which such manufacture may be carried on, for the purpose of being used in such manufacture, without payment of duties thereon, and may there be used in such manufacture.

No article so removed, nor any article manufactured in said bonded warehouse, shall be taken therefrom except for exportation, under the direction of the proper officer having charge thereof, as aforesaid, whose certificate, describing the articles by their marks, or otherwise, the quantity, the date of importation, and name of vessel, with such additional particulars as may from time to time be required, shall be received by the collector of customs in cancellation of the bonds, or return of the amount of foreign import duties.

Supervision, etc.

All labor performed and services rendered under these regulations shall be under the supervision of an officer of the customs, and at the expense of the manufacturer.

Regulations of the Secretary of Treasury relating to the establishment of bonded manufacturing warehouses (Customs Regulations 1915).

Manufacture of articles intended for exportation in bonded warehouses.

SEC. IV. [*Par. M, Act of October 3, 1913 (38 Stat. 192).*] That all articles manufactured in whole or in part of imported materials, or of materials subject to internal-revenue tax, and intended for exportation without being charged with duty, and without having an internal-revenue stamp affixed thereto, shall, under such regulations as the Secretary of the Treasury may prescribe, in order to be so manufactured and exported, be made and manufactured in bonded warehouses similar to those known and designated in Treasury Regulations as bonded warehouses, class six: *Provided*, That the manufacturer of such articles shall first give satisfactory bonds for the faithful observance of all the provisions of law and of

such regulations as shall be prescribed by the Secretary of the Treasury: *Provided further*, That the manufacture of distilled spirits from grain, starch, molasses, or sugar, including all dilutions or mixtures of them or either of them, shall not be permitted in such manufacturing warehouses.

Whenever goods manufactured in any bonded warehouse established under the provisions of the preceding paragraph shall be exported directly therefrom or shall be duly laden for transportation and immediate exportation under the supervision of the proper officer who shall be duly designated for that purpose, such goods shall be exempt from duty and from the requirements relating to revenue stamps.

Any materials used in the manufacture of such goods, and any packages, coverings, vessels, brands, and labels used in putting up the same may, under the regulations of the Secretary of the Treasury, be conveyed without the payment of revenue tax or duty into any bonded manufacturing warehouse, and imported goods may, under the aforesaid regulations, be transferred without the exaction of duty from any bonded warehouse into any bonded manufacturing warehouse; but this privilege shall not be held to apply to implements, machinery, or apparatus to be used in the construction or repair of any bonded manufacturing warehouse or for the prosecution of the business carried on therein.

No articles or materials received into such bonded manufacturing warehouse shall be withdrawn or removed therefrom except for direct shipment and exportation or for transportation and immediate exportation in bond to foreign countries or to the Philippine Islands under the supervision of the officer duly designated therefor by the collector of the port, who shall certify to such shipment and exportation, or lading for transportation, as the case may be, describing the articles by their mark or otherwise, the quantity, the date of exportation, and the name of the vessel: *Provided*, That the waste material or by-products incident to the processes of manufacture, including waste derived from cleaning rice in bonded warehouses under act of March twenty-fourth, eighteen hundred and seventy-four, in said bonded warehouses may be withdrawn for domestic consumption on the payment of duty equal to the duty which would be assessed and collected, by law, if such waste or by-products were imported from a foreign country. All labor performed and services rendered under these provisions shall be under the supervision of a duly designated officer of the customs and at the expense of the manufacturer.

A careful account shall be kept by the collector of all merchandise delivered by him to any bonded manufacturing warehouse, and a sworn monthly return, verified

by the customs officers in charge, shall be made by the manufacturers containing a detailed statement of all imported merchandise used by him in the manufacture of exported articles.

Before commencing business the proprietor of any manufacturing warehouse shall file with the Secretary of the Treasury a list of all the articles intended to be manufactured in such warehouse, and state the formula of manufacture and the names and quantities of the ingredients to be used therein.

Articles manufactured under these provisions may be withdrawn under such regulations as the Secretary of the Treasury may prescribe for transportation and delivery into any bonded warehouse at an exterior port for the sole purpose of immediate export therefrom:

Provided, That cigars manufactured in whole of tobacco imported from any one country, made and manufactured in such bonded manufacturing warehouses, may be withdrawn for home consumption upon the payment of the duties on such tobacco in its condition as imported under such regulations as the Secretary of the Treasury may prescribe, and the payment of the internal-revenue tax accruing on such cigars in their condition as withdrawn, and the boxes or packages containing such cigars shall be stamped to indicate their character, origin of tobacco from which made, and place of manufacture.

The provisions of Revised Statutes thirty-four hundred and thirty-three shall, so far as may be practicable, apply to any bonded manufacturing warehouse established under this act and to the merchandise conveyed therein.

Withdrawal of spirits by manufacturer of perfumery, etc.

SEC. 20. [*Act of March 1, 1879 (20 Stat., 327), as amended by sec. 14, act of May 28, 1880 (21 Stat., 145).*] That under such regulations and requirements as to stamps, bonds, and other security as shall be prescribed by the Commissioner of Internal Revenue, any manufacturer of medicines, preparations, compositions, perfumeries, cosmetics, cordials, and other liquors, for export, manufacturing the same in a duly constituted manufacturing warehouse, shall be authorized to withdraw, in original packages, from any distillery-warehouse, so much distilled spirits as he may require for the said purpose, without the payment of the internal-revenue tax thereon.

Allowance for leakage.

SEC. 15. [*Act of May 28, 1880 (21 Stat., 145).*] That where spirits are withdrawn from distillery warehouses for transfer to manufacturing warehouses, under the provisions of this act, it shall be lawful, under such rules and regulations and limitations as shall be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, for an allowance to be made for leakage or loss by any unavoidable accident, and without any fraud or negligence of the distiller, owner, exporter, carrier, or their agents or employees, occurring

during transportation from a distillery warehouse to a manufacturing warehouse.

See Regulations, No. 29, relative to transportation and exportation of distilled spirits in bond free of tax.
Form of continuing bond. (T. D. 2495.)

SEC. 3434. Superseded by Paragraph M, Section IV, Act of October 3, 1913 (p. 757).

SEC. IV. [*Par. O, Act of October 3, 1913 (38 Stat., 192). Extract.*] That on the exportation of flavoring extracts, medicinal or toilet preparations (including perfumery) hereafter manufactured or produced in the United States in part from domestic alcohol on which an internal-revenue tax has been paid, there shall be allowed a drawback equal in amount to the tax found to have been paid on the alcohol so used: *Provided*, That no other than domestic tax-paid alcohol shall have been used in the manufacture or production of such preparations. Such drawback shall be determined and paid under such rules and regulations, and upon the filing of such notices, bonds, bills of lading, and other evidence of payment of tax and exportation, as the Secretary of the Treasury shall prescribe.

Drawback equal to tax on domestic alcohol used in medicinal and toilet preparations.

That the provisions of this section shall apply to materials used in the construction and equipment of vessels built for foreign account and ownership, or for the Government of any foreign country, notwithstanding that such vessels may not within the strict meaning of the term be articles exported.

Regulations relative to the use of rectified alcohol in the manufacture for export of flavoring extracts, etc. (T. D. 1968.)

Articles manufactured in the United States from imported materials for exportation, and flavoring extracts, toilet and medicinal preparations manufactured from domestic tax-paid alcohol. (T. D. 33809.)

Drawback on flavoring extracts, toilet and medicinal preparations manufactured from domestic tax-paid alcohol. See Customs Regulations of 1915, article 882. (T. D. 31695.)

Drawback allowed under this paragraph on domestic alcohol used in manufacture of medicinal and toilet articles to include additional tax paid on such alcohol under the revenue act of October 3, 1917. (T. D. 2572.)

For drawback of tax on distilled spirits exported in "distillers' original casks or packages," see section 3329, R. S. p. 279, and Regulations No. 29, revised.

For drawback of tax on exported tobacco, snuff, and cigars, see section 3386, R. S. (p. 393), and Regulations, No. 29, revised.

SEC. IV. [*Par. P, Act of October 3, 1913 (38 Stat., 192).*] That upon the reimportation of articles once exported, of the growth, product, or manufacture of the United States, upon which no internal tax has been assessed or paid, or upon which such tax has been paid and refunded by allowance or drawback, there shall be levied, collected, and paid a duty equal to the tax im-

Articles reimported on which no revenue tax was paid, or, if paid, was refunded.

posed by the internal-revenue laws upon such articles, except articles manufactured in bonded warehouses and exported pursuant to law, which shall be subject to the same rate of duty as if originally imported, but proof of the identity of such articles shall be made under general regulations to be prescribed by the Secretary of the Treasury.

Construction of
act March 2, 1833
(4 Stat., 632).

SEC. 3465. An act entitled "An act further to provide for the collection of duties on imports," passed March second, eighteen hundred and thirty-three, shall not be so construed as to apply to cases arising under an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," passed June thirtieth, eighteen hundred and sixty-four, or any act in addition thereto or in amendment thereof, nor to any case in which the validity or interpretation of said act or acts shall be in issue.

Hornthall v. Collector (9 Wall., 566); Assessor v. Osbornes (9 Wall., 577).

The words "revenue laws," where used broadly and generally, include internal revenue as well as customs laws. (United States v. Dustin, 15 Int. Rev. Rec., 30.)

AN ACT Relative to recognizances, stipulations, bonds, and undertakings, and to allow certain corporations to be accepted as surety thereon.

[Act August 13, 1894 (28 Stat. 279), amended by act of March 23, 1910 (36 Stat. 241).]

That whenever any recognizance, stipulation, bond, or undertaking conditioned for the faithful performance of any duty, or for doing or refraining from doing anything in such recognizance, stipulation, bond, or undertaking specified, is by the laws of the United States required or permitted to be given with one surety or with two or more sureties, the execution of the same or the guaranteeing of the performance of the condition thereof shall be sufficient when executed or guaranteed solely by a corporation incorporated under the laws of the United States, or of any State having power to guarantee the fidelity of persons holding positions of public or private trust; and to execute and guarantee bonds and undertakings in judicial proceedings: *Provided*, That such recognizance, stipulation, bond, or undertaking be approved by the head of department, court, judge, officer, board, or body executive, legislative, or judicial required to approve or accept the same. But no officer or person having the approval of any bond shall exact that it shall be furnished by a guarantee company or by any particular guarantee company.

Bonds executed
and guaranteed
solely by a cor-
poration, when
sufficient.

SEC. 2. That no such company shall do business under the provisions of this Act beyond the limits of the State or Territory under whose laws it was incorporated and in which its principal office is located, nor beyond the limits

of the District of Columbia, when such company was incorporated under its laws or the laws of the United States and its principal office is located in said District, until it shall by a written power of attorney appoint some person residing within the jurisdiction of the court for the judicial district wherein such suretyship is to be undertaken, who shall be a citizen of the State, Territory, or District of Columbia, wherein such court is held, as its agent, upon whom may be served all lawful process against such company, and who shall be authorized to enter an appearance in its behalf. A copy of such power of attorney, duly certified and authenticated, shall be filed with the clerk of the district court of the United States for such district at each place where a term of such court is or may be held, which copy, or a certified copy thereof, shall be legal evidence in all controversies arising under this Act. If any such agent shall be removed, resign, or die, become insane, or otherwise incapable of acting, it shall be the duty of such company to appoint another agent in his place as hereinbefore prescribed, and until such appointment shall have been made, or during the absence of any agent of such company from such district, service of process may be upon the clerk of the court wherein such suit is brought, with like effect as upon an agent appointed by the company. The officer executing such process upon such clerk shall immediately transmit a copy thereof by mail to the company, and state such fact in his return. A judgment decree, or order of a court entered or made after service of process as aforesaid shall be as valid and binding on such company as if served with process in said district.

Power of attorney.

A copy of power of attorney to be filed with clerk of the district court.

When agent removed, etc.

Service of process.

Judgment.

SEC. 3. (*Amended by act of March 23, 1910; 36 Stat. 241*). That every company, before transacting any business under this Act, shall deposit with the Secretary of the Treasury of the United States a copy of its charter or articles of incorporation, and a statement, signed and sworn to by its president and secretary, showing its assets and liabilities. If the said Secretary of the Treasury shall be satisfied that such company has authority under its charter to do the business provided for in this Act, and that it has a paid-up capital of not less than two hundred and fifty thousand dollars, in cash or its equivalent, and is able to keep and perform its contracts, he shall grant authority in writing to such company to do business under this Act.

Copy of charter or articles of incorporation, etc., to be filed with Secretary of the Treasury.

SEC. 4. That every such company shall, in the months of January, April, July, and October of each year, file with the said Secretary of the Treasury a statement, signed and sworn to by its president and secretary, showing its assets and liabilities, as is required by section three of this Act. And the said Secretary of the Treasury shall have the power, and it shall be his duty, to revoke the authority of any such company to transact any

The company to file statement during the year, showing its assets and liabilities.

new business under this Act whenever in his judgment such company is not solvent or is conducting its business in violation of this Act. He may institute inquiry at any time into the solvency of said company and may require that additional security be given at any time by any principal when he deems such company no longer sufficient security.

An act to amend an act approved August 13, 1894, entitled "An act relative to recognizances, stipulations, bonds, and undertakings, and to allow certain corporations to be accepted as surety thereon," approved March 23, 1910. (36 Stat., 241.)

Company may
be sued in any
U. S. court.

SEC. 5. That any surety company doing business under the provisions of this Act may be sued in respect thereof in any court of the United States which has now or hereafter may have jurisdiction of actions or suits upon such recognizance, stipulation, bond, or undertaking, in the district in which such recognizance, stipulation, bond, or undertaking was made or guaranteed, or in the district in which the principal office of such company is located. And for the purposes of this Act such recognizance, stipulation, bond, or undertaking shall be treated as made or guaranteed in the district in which the office is located, to which it is returnable, or in which it is filed, or in the district in which the principal in such recognizance, stipulation, bond, or undertaking resided when it was made or guaranteed.

Neglect or re-
fusal to pay judg-
ment or decree,
etc.

SEC. 6. That if any such company shall neglect or refuse to pay any final judgment or decree rendered against it upon any such recognizance, stipulation, bond, or undertaking made or guaranteed by it under the provisions of this Act, from which no appeal, writ of error, or supersedeas has been taken, for thirty days after the rendition of such judgment or decree, it shall forfeit all right to do business under this Act.

Company es-
topped to deny
its corporate
power, etc.

SEC. 7. That any company which shall execute or guarantee any recognizance, stipulation, bond, or undertaking under the provisions of this Act shall be estopped in any proceeding to enforce the liability which it shall have assumed to incur, to deny its corporate power to execute or guarantee such instrument or assume such liability.

Failure to com-
ply with provi-
sions of this act.
Forfeiture.

SEC. 8. That any company doing business under the provisions of this Act which shall fail to comply with any of its provisions shall forfeit to the United States for every such failure not less than five hundred dollars nor more than five thousand dollars, to be recovered by suit in the name of the United States in the same courts in which suit may be brought against such company under the provisions of this Act, and such failure shall not affect the validity of any contract entered into by such company.

Instructions regarding preparation of bonds executed by corporate sureties. (Cir. No. 711; T. D. 1279; Int. Rev. Mim. Cir. No. 562; T. D. 1382.)

Execution of bonds on other forms than those furnished by the Government forbidden. (T. D. 1591.)

Collectors are forbidden to exact that bonds shall be furnished by a guarantee company or any particular guarantee company. (T. D. 1155.)

Actual liability of surety companies on outstanding warehousing bonds, and not the full penal sum of such bonds, to be hereafter certified by collectors, and to be taken into account in determining the qualification of such companies to new bonds offered by the same principal. (T. D. 1316.)

Acknowledgment of bonds no longer required. (T. D. 1370.)

Regulations applicable to surety companies doing business with the United States under the act of August 13, 1894, as amended. (Dept. Circular No. 54; T. D. 30037.)

Limitation with reference to acceptance of surety bonds. (T. D. 2141.)

Sureties on official bonds can not withdraw from such bonds without the consent of the United States, and notice to the appropriate department that they will be no longer bound is ineffective to relieve them from liability for subsequent defalcations of their principal. (United States v. Campbell (1900), circuit court of appeals, 170 Fed., 318.)

This act requires the appointment of a process agent in the district where the principal resides, and also in the district where the contract is to be performed, and where the bond is returnable or filed. (23 Op. Atty. Gen., 34.)

This act does not make the company becoming surety upon bonds required by United States an instrumentality of the Government and exempt from tax under State law. (Fidelity & Deposit Co. v. Pennsylvania, 240 U. S., 319.)

SEC. 1320. [*Act of February 24, 1919 (40 Stat., 1057).*] That wherever by the laws of the United States or regulations made pursuant thereto, any person is required to furnish any recognizance, stipulation, bond, guaranty, or undertaking, hereinafter called "penal bond," with surety or sureties, such person may, in lieu of such surety or sureties, deposit as security with the official having authority to approve such penal bond, United States Liberty bonds or other bonds of the United States in a sum equal at their par value to the amount of such penal bond required to be furnished, together with an agreement authorizing such official to collect or sell such bonds so deposited in case of any default in the performance of any of the conditions or stipulations of such penal bond. The acceptance of such United States bonds in lieu of surety or sureties required by law shall have the same force and effect as individual or corporate sureties, or certified checks, bank drafts, post-office money orders, or cash, for the penalty or amount of such penal bond. The bonds deposited hereunder, and such other United States bonds as may be substituted therefor from time to time as such security, may be deposited with the Treasurer, or an Assistant Treasurer of the United States, a Government depository, Federal Reserve bank, or member bank, which shall issue receipt therefor, describing such bonds so deposited. As soon as security for the performance of such penal bond is no longer necessary, such bonds so deposited, shall be returned to the de-

Liberty or other United States bonds in lieu of surety bonds; return.

positor: *Provided*, That in case a person or persons supplying a contractor with labor or material as provided by the Act of Congress, approved February 24, 1905 (33 Stat., 811), entitled "An Act to amend an Act approved August thirteenth eighteen hundred and ninety-four, entitled 'An Act for the protection of persons furnishing materials and labor for the construction of public works,'" shall file with the obligee, at any time after a default in the performance of any contract subject to said Acts, the application and affidavit therein provided, the obligee shall not deliver to the obligor the deposited bonds nor any surplus proceeds thereof until the expiration of the time limited by said Acts for the institution of suit by such person or persons, and, in case suit shall be instituted within such time, shall hold said bonds or proceeds subject to the order of the court having jurisdiction thereof: *Provided further*, That nothing herein contained shall affect or impair the priority of the claim of the United States against the bonds deposited or any right or remedy granted by said Acts or by this section to the United States for default upon any obligation of said penal bond: *Provided further*, That all laws inconsistent with this section are hereby so modified as to conform to the provisions hereof: *And provided further*, That nothing contained herein shall affect the authority of courts over the security, where such bonds are taken as security in judicial proceedings, or the authority of any administrative officer of the United States to receive United States bonds for security in cases authorized by existing laws. The Secretary may prescribe rules and regulations necessary and proper for carrying this section into effect.

Instructions as to bond where claimant elects to offer in lieu of sureties bonds of United States. (T. D. 2925.)

Form of bonds for extending date of payment of floor taxes. (T. D. 2798.)

Stamp tax on powers of attorney of persons depositing Liberty bonds in lieu of sureties. (T. D. 2913.)

[Extract from the urgent deficiency appropriation act for the fiscal year 1909, approved August 5, 1909 (36 Stat., 118, 125).]

* * * * *

Bonds from
surety compa-
nies.

Until otherwise provided by law no bond shall be accepted from any surety or bonding company for any officer or employee of the United States which shall cost more than thirty-five per centum in excess of the rate of premium charged for a like bond during the calendar year nineteen hundred and eight: *Provided*, That hereafter the United States shall not pay any part of the premium or other cost of furnishing a bond required by law or otherwise of any officer or employee of the United States.

Joint commis-
sion.

That a joint commission consisting of three Senators, to be appointed by the President of the Senate, and three

Members of the House of Representatives, to be appointed by the Speaker of the House of Representatives, shall inquire into the rates of premium heretofore and now being charged, as well as those proposed to be charged, by surety or bonding companies for bonds of officers or employees of the United States and report to Congress by bill or otherwise at its next session what regulation, if any, should be exercised under law or otherwise over the same.

* * * * *

(27 Op. Atty. Gen., 597.)

(28 Op. Atty. Gen., 28. Dept. Circular No. 58.)

Senate Report No. 1260, 61st Congress, 3d session.

On and after November 1, 1911, bonds of surety companies must state upon their face the rate of premium charged. (Cir. No. 60; T. D. 31905.)

OFFICIAL BONDS.

[Extract from legislative, executive, and judicial appropriation act, approved March 2, 1895 (28 Stat., 807.)]

SEC. 5. * * * Hereafter all bonds of the Treasurer of the United States, collectors of internal revenue, collectors, naval officers, surveyors, and other officers of the customs, either as such officers or as disbursing officers of the Treasury, bonds of the Secretary of the Senate, Clerk of the House of Representatives, and the Sergeant-at-Arms of the House of Representatives, and all such bonds now on file in the office of the Comptroller of the Treasury, shall be transmitted to the Secretary of the Treasury and filed as he may direct; and the duties now required by law of the Comptroller of the Treasury in regard to such bonds, as the successor of the Commissioner of Customs and First Comptroller of the Treasury, shall hereafter be performed by the Secretary of the Treasury.

Bonds of collectors of internal revenue to be filed with Secretary of Treasury.

Hereafter every officer required by law to take and approve official bonds shall cause the same to be examined at least once every two years for the purpose of ascertaining the sufficiency of the sureties thereon; and every officer having power to fix the amount of an official bond shall examine it to ascertain the sufficiency of the amount thereof and approve or fix said amount at least once in two years and as much oftener as he may deem it necessary.

Official bonds to be examined at least every two years.

Hereafter every officer whose duty it is to take and approve official bonds shall cause all such bonds to be renewed every four years after their dates, but he may require such bonds to be renewed or strengthened oftener if he deem such action necessary. In the discretion of such officer the requirement of a new bond may be waived for the period of service of a bonded officer after the expiration of a four-year term of service pending the appointment and qualification of his successor: *Provided*, That the nonperformance of any requirement of this sec-

Bonds renewed or strengthened every four years or oftener.

Period of liability covered on official bonds.

Sec. 3836, R. S., not repealed nor modified. Postal bonds not affected.

tion on the part of any official of the Government shall not be held to affect in any respect the liability of principal or sureties on any bond made or to be made to the United States: *Provided further*, That the liability of the principal and sureties on all official bonds shall continue and cover the period of service ensuing until the appointment and qualification of the successor of the principal: *And provided further*, That nothing in this section shall be construed to repeal or modify section thirty-eight hundred and thirty-six of the Revised Statutes of the United States.

[Notice of deficiency in accounts of principals to be given to sureties upon bonds of United States officials, and fixing a limitation of time within which suits shall be brought against said sureties upon said bonds.]

Notification to obligors.

SEC. 1. [*Act of August 8, 1888 (25 Stat. 387).*] That hereafter, whenever any deficiency shall be discovered in the accounts of any official of the United States, or of any officer disbursing or chargeable with public money, it shall be the duty of the accounting officers making such discovery to at once notify the head of the Department having control over the affairs of said officer of the nature and amount of said deficiency, and it shall be the immediate duty of said head of Department to at once notify all obligors upon the bond or bonds of such official of the nature of such deficiency and the amount thereof. Said notification shall be deemed sufficient if mailed at the post-office in the city of Washington, District of Columbia, addressed to said sureties respectively, and directed to the respective post-offices where said obligors may reside, if known; but a failure to give or mail such notice shall not discharge the surety or sureties upon such bond.

Suit within five years.

SEC. 2. That if, upon the statement of the account of any official of the United States, or of any officer disbursing or chargeable with public money, by the accounting officers of the Treasury, it shall thereby appear that he is indebted to the United States, and suit therefor shall not be instituted within five years after such statement of said account, the sureties on his bond shall not be liable for such indebtedness.

[Acts in regard to Hawaii, Porto Rico, Philippine Islands, and Virgin Islands.]

HAWAII.

AN ACT To provide a government for the Territory of Hawaii.
(Act April 30, 1900, 31 Stat., 141.)

[Extracts.]

Constitution and laws of the United States in force in Hawaii.

SEC. 5. That the Constitution, and except as herein otherwise provided, all the laws of the United States which are not locally inapplicable, shall have the same force and effect within the said Territory as elsewhere in the United States: *Provided*, That sections eighteen

hundred and fifty and eighteen hundred and ninety of the Revised Statutes of the United States shall not apply to the Territory of Hawaii.

* * * * *

SEC. 87. That the Territory of Hawaii shall constitute a district for the collection of the internal revenue of the United States, with a collector, whose office shall be at Honolulu, and deputy collectors at such other places in the several islands as the Secretary of the Treasury shall direct.

Constituted collection district.

* * * * *

SEC. 104. This Act shall take effect forty-five days from and after the date of the approval thereof, excepting only as to section fifty-two, relating to appropriations, which shall take effect upon such approval.

This act took effect June 14, 1900.

Joint resolution providing for the annexation of Hawaii, approved July 7, 1898, 30 Stat., 750.

Laws relating to the exportation of articles free of tax, or with benefit of drawback, not applicable to shipment of articles to Hawaii on and after June 14, 1900. (T. D., 120.)

Forfeiture of a vessel for violation of the internal-revenue laws. (The Kauaiani, 128 Fed., 879.)

Suit to enjoin enforcement of income tax law of Hawaii. (Peacock v. Pratt, 121 Fed., 772.)

PORTO RICO.

AN ACT Temporarily to provide revenues and a civil government for Porto Rico, and for other purposes. (Act of April 12, 1900; 31 Stat., 77.)

[Extracts.]

SEC. 3. That on and after the passage of this Act all merchandise coming into the United States from Porto Rico and coming into Porto Rico from the United States shall be entered at the several ports of entry upon payment of fifteen per centum of the duties which are required to be levied, collected, and paid upon like articles of merchandise imported from foreign countries; and in addition thereto upon articles of merchandise of Porto Rican manufacture coming into the United States and withdrawn for consumption or sale upon payment of a tax equal to the internal-revenue tax imposed in the United States upon the like articles of merchandise of domestic manufacture; such tax to be paid by internal-revenue stamp or stamps to be purchased and provided by the Commissioner of Internal Revenue and to be procured from the collector of internal revenue at or most convenient to the port of entry of said merchandise in the United States, and to be affixed under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe.

Tax or articles from.

* * * * *

Internal - revenue laws not applicable.

SEC. 14. That the statutory laws of the United States not locally inapplicable, except as hereinbefore or herein-after otherwise provided, shall have the same force and effect in Porto Rico as in the United States, except the internal-revenue laws, which, in view of the provisions of section three, shall not have force and effect in Porto Rico.

SEC. 41. That this Act shall take effect and be in force from and after the first day of May, nineteen hundred.

The organic act of Porto Rico, called "The Foraker Act." (Circular No. 59; T. D. 22198.)

War with Spain declared (act of April 25, 1898; 30 Stat., 364).

Treaty of Paris ceding Porto Rico to the United States ratified and proclaimed April 11, 1899. Circular No. 57. (T. D. 21006; T. D. 23501.)

The act of April 12, 1900, called "The Foraker Act" constitutional. (Downes v. Bidwell, 182 U. S., 244.)

Abolition of duties. Proclamation of the President under section 3. (July 25, 1901; T. D. 23202.)

Circular No. 606 relative to collection of internal-revenue tax in Porto Rico. (July 28, 1901; T. D. 387; Cir. No. 607; T. D. 407.)

No permit required for release of properly stamped articles arriving from Porto Rico. (T. D. 413.)

Collection of internal-revenue tax upon articles of merchandise coming from Porto Rico. (Cir. No. 603, T. D. 1130.)

Importation of Porto Rican products (24 Op. Atty. Gen., 55, 612).

In *De Lima v. Bidwell*, 182 U. S., 1, Porto Rico was held not to be a foreign country after the cession, and that a prior act exclusively applicable to foreign countries became inapplicable. (Fourteen Diamond Rings v. United States, 183 U. S., 181.)

Since April 11, 1899, Porto Rico has been de facto and de jure American territory. (*Ponce v. Roman Cath. Church*, 210 U. S., 296.)

AN ACT To provide means for the sale of internal-revenue stamps in the island of Porto Rico, approved June 29, 1906. (34 Stat., 620.)

Deputy collector in Porto Rico.

That all United States internal-revenue taxes now imposed by law on articles of Porto Rican manufacture coming into the United States for consumption or sale may hereafter be paid by affixing to such articles before shipment thereof a proper United States internal-revenue stamp denoting such payment, and for the purpose of carrying into effect the provisions of this Act the Secretary of the Treasury is authorized to grant to such collector of internal revenue as may be recommended by the Commissioner of Internal Revenue, and approved by the Secretary, an allowance for the salary and expenses of a deputy-collector of internal revenue, to be stationed at San Juan, Porto Rico, and the appointment of this deputy to be approved by the Secretary.

Stamps.

The collector will place in the hands of such deputy all stamps necessary for the payment of the proper tax on articles produced in Porto Rico and shipped to the

United States, and the said deputy, upon proper payment made for said stamps, shall issue them to manufacturers in Porto Rico. All such stamps so issued or transferred to said deputy collector shall be charged to the collector and be accounted for by him as in the case of other tax-paid stamps.

The deputy collector assigned to this duty shall perform such other work in connection with the inspection and stamping of such articles, and shall make such returns as the Commissioner of Internal Revenue may, by regulations approved by the Secretary of the Treasury, direct, and all provisions of existing law relative to the appointment, duties, and compensation of deputy collectors of internal revenue, including office rent and other necessary expenses, shall, so far as applicable, apply to the deputy collector of internal revenue assigned to duty under the provisions of this Act.

Deputy collector.

Returns.

Compensation.

SEC. 2. That before entering upon the duties of his office such deputy collector shall execute a bond, payable to the collector of internal revenue appointing him, in such amount and with such sureties as he may determine.

Bond.

Sale of internal-revenue stamps in Porto Rico (Cir. No. 679; T. D. 1031).

Cigars of Porto Rican manufacture brought to the United States are subject to internal-revenue tax and must have affixed thereto the same stamps as required for domestic cigars. (Dept. circulars 54, 56, 81, 85.)

"An act to impose a tax on alcoholic compounds coming from Porto Rico, and for other purposes," approved February 4, 1909. (Circular No. 734; T. D. 1462.)

Words "alcoholic compounds" to be omitted from tax-paid stamps for alcohol and other uncompounded spirits brought from Porto Rico. (T. D. 1481.)

Denatured alcohol from Porto Rico. (T. D. 1419; T. D. 1450.)

Regulations relative to taxable articles brought from Porto Rico. (Int. Rev. Cir. 565; T. D. 109; Int. Rev. Cir. 566; T. D. 110; Int. Rev. Cir. 678; T. D. 1031; Int. Rev. Cir. 693; T. D. 1130.)

Alcohol brought to the United States from Porto Rico may be removed free of tax for denaturation. (T. D. 2575.)

SEC. IV. [*Paragraph D, act of October 3, 1913 (38 Stat., 192).*] That articles, goods, wares, or merchandise going into Porto Rico from the United States shall be exempted from the payment of any tax imposed by the internal-revenue laws of the United States.

Merchandise going into Porto Rico from United States.

Act providing for allowance of drawback on articles shipped to Porto Rico, page 625.

AN ACT To provide a civil government for Porto Rico, and for other purposes. Approved March 2, 1917 (39 Stat., 954).

[Extract.]

* * * * *

SEC. 9. That the statutory laws of the United States not locally inapplicable, except as hereinbefore or herein after otherwise provided, shall have the same force and

effect in Porto Rico as in the United States, except the internal-revenue laws: *Provided, however, That hereafter all taxes collected under the internal-revenue laws of the United States on articles produced in Porto Rico and transported to the United States or consumed in the island shall be covered into the treasury of Porto Rico.*

* * * * *

Collections on Porto Rican products. Instructions relative to internal-revenue collections on Porto Rican products under the act of March 2, 1917, entitled "An act to provide a civil government for Porto Rico, and for other purposes." (T. D. 2482.)

Existing laws in regard to Porto Rico continued in force. Section 58, act of March 2, 1917.

PHILIPPINE ISLANDS.

AN ACT Temporarily to provide revenue for the Philippine Islands, and for other purposes. Approved March 8, 1902 (32 Stat., 54).

[Extract.]

* * * * *

Shipments to
the Philippine Is-
lands.

SEC. 6. That all articles manufactured in bonded manufacturing warehouses in whole or in part of imported materials, or of materials subject to internal-revenue tax and intended for shipment from the United States to the Philippine Islands, shall, when so shipped, under such regulations as the Secretary of the Treasury may prescribe, be exempt from internal-revenue tax, and shall not be charged with duty except the duty levied under this Act upon imports into the Philippine Islands.

That all articles subject under the laws of the United States to internal-revenue tax, or on which the internal-revenue tax has been paid, and which may under existing laws and regulations be exported to a foreign country without the payment of such tax, or with benefit of drawback, as the case may be, may also be shipped to the Philippine Islands with like privilege, under such regulations and the filing of such bonds, bills of lading, and other security as the Commissioner of Internal Revenue may, with the approval of the Secretary of the Treasury, prescribe. And all taxes paid upon such articles shipped to the Philippine Islands since November fifteenth, nineteen hundred and one, under the decision of the Secretary of the Treasury of that date, shall be refunded to the parties who have paid the same, under such rules and regulations as the Secretary of the Treasury may prescribe, and a sum sufficient to make such payment is hereby appropriated, out of any money in the Treasury not otherwise appropriated.

Drawback.

That where materials on which duties have been paid are used in the manufacture of articles manufactured or produced in the United States, there shall be allowed on the shipment of said articles to the Philippine Archipelago a drawback equal in amount to the duties paid on the materials used, less one per centum of such duties,

under such rules and regulations as the Secretary of the Treasury may prescribe.

* * * * *

Shipments to the Philippine Islands of articles subject to internal-revenue tax. (Regulations No. 29, rev.) (T. Ds. 484, 491, 23586.)

Rules and regulations for the refunding of internal-revenue taxes paid upon articles shipped to the Philippine Islands since November 15, 1901. (Cir. No. 626; T. D. 542.)

Treaty of peace ratified and proclaimed April 11, 1899. (T. D. 21006; Cir. No. 57; T. D. 23501.)

Pepke v. United States (183 U. S., 176). Case known as the "Fourteen Diamond Rings Case," involving the constitutionality of the imposition of customs duties upon merchandise brought into the United States from the Philippines after the treaty of peace took effect. Philippines not a foreign country after its cession. The effect of this decision was to give the Philippines the same status that Porto Rico had before the Foraker Act was passed.

The President authorized to establish temporary civil government in the Philippine Islands. (Act of March 2, 1901; 31 Stat., 910.)

An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes. (Act of July 1, 1902; 32 Stat., 691.)

All articles the growth and product of the Philippine Islands coming directly from said islands to the United States or any of its possessions for use and consumption therein, shall be exempt from any export duties imposed in the Philippine Islands. (Act to raise revenue for the Philippine Islands and for other purposes. Act of August 5, 1909; 36 Stat., 174; superseded by act of October 3, 1913; 38 Stat., 192.)

Funds derived from the sale of internal-revenue stamps in the Philippine Islands belong to the Philippine government under the provisions of section 4 of the act of March 8, 1902. (32 Stat., 54.) (28 Op. Atty. Gen., 70.)

SEC. IV. [*Par. C, act October 3, 1913 (38 Stat. 192).*]

* * *

And provided, That there shall be levied, collected, and paid, in the United States, upon articles, goods, wares, or merchandise coming into the United States from the Philippine Islands, a tax equal to the internal-revenue tax imposed in the United States upon the like articles, goods, wares, or merchandise of domestic manufacture; such tax to be paid by internal-revenue stamp or stamps, to be provided by the Commissioner of Internal Revenue, and to be affixed in such manner and under such regulations as he, with the approval of the Secretary of the Treasury, shall prescribe; and such articles, goods, wares, or merchandise, shipped from said islands to the United States, shall be exempt from the payment of any tax imposed by the internal-revenue laws of the Philippine Islands:

Tax equal to internal-revenue tax on imports from Philippine Islands.

Exempt from Philippine Islands tax.

And provided further, That there shall be levied, collected, and paid in the Philippine Islands, upon articles, goods, wares, or merchandise going into the Philippine Islands from the United States, a tax equal to the internal-revenue tax imposed in the Philippine Islands upon the like articles, goods, wares, or merchandise of Phil-

Tax on imports from United States to Philippine Islands.

Exempt from
United States
tax.

Tax on im-
ports other than
from United
States.

Internal reve-
nue to be paid
into insular
treasury.

Philippine Islands manufacture; such tax to be paid by internal-revenue stamps or otherwise, as provided by the laws in the Philippine Islands; and such articles, goods, wares, or merchandise going into the Philippine Islands from the United States shall be exempt from the payment of any tax imposed by the internal-revenue laws of the United States:

And provided further, That in addition to the customs taxes imposed in the Philippine Islands, there shall be levied, collected, and paid therein upon articles, goods, wares, or merchandise imported into the Philippine Islands from countries other than the United States, the internal-revenue tax imposed by the Philippine Government on like articles manufactured and consumed in the Philippine Islands or shipped thereto for consumption therein, from the United States:

And provided further, That from and after the passage of this act all internal revenues collected in or for account of the Philippine Islands shall accrue intact to the general government thereof and be paid into the insular treasury:

This act is a reenactment with amendments of section 5, act of August 5, 1909. (36 Stat., 83.)

Cigars and cigarettes brought into the United States from the Philippine Islands subject to internal-revenue tax under section 5 of the act of August 5, 1909 (36 Stat., 83), and internal-revenue stamps are required to be affixed. (29 Op. Atty. Gen., 77.)

Regulations concerning articles subject to internal-revenue tax coming into the United States from the Philippine Islands. No. 8, revised July 1, 1910, page 68. (T. D. 1531, modified by T. D. 1567.)

Regulations under section 5, act of August 5, 1909. Circular No. 37. (T. D. 29944.)

Articles shipped from the Philippine Islands. (T. D. 1569.)

Shipments to and from Philippine Islands. Circular No. 39. (T. D. 30744.)

For act allowing drawback on articles shipped to Philippine Islands, see page 625.

Shipments of taxable articles to the Philippines are provided for in Regulations No. 29, revised.

AN ACT To declare the purpose of the people of the United States as to the future political status of the people of the Philippine Islands, and to provide a more autonomous government for those islands. (Approved, August 29, 1916; 39 Stat., 545.)

[Extracts.]

SEC. 5. That the statutory laws of the United States hereafter enacted shall not apply to the Philippine Islands, except when they specifically so provide, or it is so provided in this act.

SEC. 11. That no export duties shall be levied or collected on exports from the Philippine Islands, but taxes and assessments on property and license fees for fran-

chises, and privileges, and internal taxes, direct or indirect, may be imposed for the purposes of the Philippine Government and the provincial and municipal governments thereof, respectively, as may be provided and defined by acts of the Philippine Legislature. * * *

DRAWBACK ON ARTICLES SHIPPED TO PORTO RICO AND PHILIPPINE ISLANDS.

AN ACT To provide for the allowance of drawback of tax on articles shipped to the island of Porto Rico or to the Philippine Islands. (Approved March 4, 1915; 38 Stat., 1189.)

Be it enacted, etc., That all provisions of existing laws for the allowance of drawback of internal-revenue tax on articles exported from the United States are, so far as applicable, hereby extended to like articles upon which an internal-revenue tax has been paid when shipped from the United States to the island of Porto Rico or to the Philippine Islands.

ISLANDS ACQUIRED FROM DENMARK.

AN ACT To provide a temporary government for the West Indian Islands acquired by the United States from Denmark by the convention entered into between said countries on August 4, 1916, and ratified by the Senate of the United States on September 7, 1916. (Approved March 3, 1917; 39 Stat., 1132.)

[Extracts.]

* * * * *

SEC. 3. That on and after the passage of this act there shall be levied, collected, and paid upon all articles coming into the United States or its possessions, from the West Indian Islands ceded to the United States by Denmark, the rates of duty and internal-revenue taxes which are required to be levied, collected, and paid upon like articles imported from foreign countries: *Provided*, That all articles, the growth or product of, or manufactured in such islands from materials the growth or product of such islands or of the United States, or of both, or which do not contain foreign materials to the value of more than twenty per centum of their total value, upon which no drawback of customs duties has been allowed therein, coming into the United States from such islands shall hereafter be admitted free of duty.

Imports subject to regular duties.

SEC. 4. That until Congress shall otherwise provide all laws now imposing taxes in the said West Indian Islands, including the customs laws and regulations, shall, in so far as compatible with the changed sovereignty and not otherwise herein provided, continue in force and effect, except that articles the growth, product, or manufacture of the United States shall be admitted there free of duty: *Provided*, That upon exportation of sugar to any foreign country, or the shipment thereof to the United States or

Laws not incompatible continue in force.

any of its possessions, there shall be levied, collected, and paid thereon an export duty of \$8 per ton of two thousand pounds irrespective of polariscope test, in lieu of any export tax now required by law.

Taxes collected
to be used for
benefit of the
islands.

SEC. 5. That the duties and taxes collected in pursuance of this act shall not be covered into the general fund of the Treasury of the United States, but shall be used and expended for the government and benefit of said islands under such rules and regulations as the President may prescribe.

* * * * *

Duties and taxes in re islands purchased from Denmark. (23 Compt. Dec., 574.)

Time of taking effect of act of March 3, 1917, upon payment of \$25,000,000 to be made public by proclamation of President. (See proclamation of March 31, 1917; T. D. 37095.)

Tax upon arti-
cles from Vir-
gin Islands.

SEC. 1304. [*Act of February 24, 1919 (40 Stat., 1057).*]

That there shall be levied, collected, and paid in the United States, upon articles coming into the United States from the Virgin Islands, a tax equal to the internal-revenue tax imposed in the United States upon like articles of domestic manufacture; such articles shipped from such islands to the United States shall be exempt from the payment of any tax imposed by the internal-revenue laws of such islands: *Provided*, That there shall be levied, collected, and paid in such islands, upon articles imported from the United States, a tax equal to the internal-revenue tax imposed in such islands upon like articles there manufactured; and such articles going into such islands from the United States shall be exempt from payment of any tax imposed by the internal-revenue laws of the United States.

Articles going
into Virgin Is-
lands from United
States.

Provisions of act of February 24, 1919 (40 Stat., 1057), of general application.

Definitions.

TITLE I.—GENERAL DEFINITIONS.

SECTION 1. That when used in this Act—

The term "person" includes partnerships and corporations, as well as individuals;

The term "corporation" includes associations, joint-stock companies, and insurance companies;

The term "domestic" when applied to a corporation or partnership means created or organized in the United States;

The term "foreign" when applied to a corporation or partnership means created or organized outside of the United States;

The term "United States" when used in a geographical sense includes only the States, the Territories of Alaska and Hawaii, and the District of Columbia;

The term "Secretary" means the Secretary of the Treasury;

The term "Commissioner" means the Commissioner of Internal Revenue;

The term "collector" means collector of internal revenue;

The term "Revenue Act of 1916" means the Act entitled "An Act to increase the revenue, and for other purposes," approved September 8, 1916;

The term "Revenue Act of 1917" means the Act entitled "An Act to provide revenue to defray war expenses, and for other purposes," approved October 3, 1917;

The term "taxpayer" includes any person, trust or estate subject to a tax imposed by this Act;

The term "Government contract" means (a) a contract made with the United States, or with any department, bureau, officer, commission, board, or agency, under the United States and acting in its behalf, or with any agency controlled by any of the above if the contract is for the benefit of the United States, or (b) a subcontract made with a contractor performing such a contract if the products or services to be furnished under the subcontract are for the benefit of the United States. The term "Government contract or contracts made between April 6, 1917, and November 11, 1918, both dates inclusive" when applied to a contract of the kind referred to in clause (a) of this paragraph, includes all such contracts which, although entered into during such period, were originally not enforceable, but which have been or may become enforceable by reason of subsequent validation in pursuance of law;

The term "military or naval forces of the United States" includes the Marine Corps, the Coast Guard, the Army Nurse Corps, Female, and the Navy Nurse Corps, Female, but this shall not be deemed to exclude other units otherwise included within such term;

The term "present war" means the war in which the United States is now engaged against the German Government.

For the purposes of this Act the date of the termination of the present war shall be fixed by proclamation of the President.

Article 1506, Regulations No. 45, headed "Limited partnership as corporation," amended. (T. D. 2943.)

SEC. 1805. That all administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, are hereby extended to and made a part of this Act, and every person liable to any tax imposed by this Act, or for the collection thereof, shall keep such records and render, under oath, such statements and returns, and shall comply with such regulations as the Commissioner, with the approval of the Secretary, may from time to time prescribe.

Whenever in the judgment of the Commissioner necessary he may require any person, by notice served upon

Laws part of act; records, statements, and returns; regulations.

Returns on notice from Commissioner.

him, to make a return or such statements as he deems sufficient to show whether or not such person is liable to tax.

Examination of books, etc.; taking testimony.

The Commissioner, for the purpose of ascertaining the correctness of any return or for the purpose of making a return where none has been made, is hereby authorized, by any revenue agent or inspector designated by him for that purpose, to examine any books, papers, records or memoranda bearing upon the matters required to be included in the return, and may require the attendance of the person rendering the return or of any officer or employee of such person, or the attendance of any other person having knowledge in the premises, and may take his testimony with reference to the matter required by law to be included in such return, with power to administer oaths to such person or persons.

Floor taxes; returns; time for payment; extension of time.

SEC. 1306. That where floor taxes are imposed by this Act in respect to articles or commodities, in respect to which the tax imposed by existing law has been paid, the person required by this Act to pay the tax shall, within thirty days after its passage, make return under oath in such form and under such regulations as the Commissioner, with the approval of the Secretary, shall prescribe. Payment of the tax shown to be due may be extended to a date not exceeding seven months from the passage of this Act, upon the filing of a bond for payment in such form and amount and with such sureties as the Commissioner, with the approval of the Secretary, may prescribe.

Mode of collecting taxes; stamp taxes.

SEC. 1307. That in all cases where the method of collecting the tax imposed by this Act is not specifically provided in this Act, the tax shall be collected in such manner as the Commissioner, with the approval of the Secretary, may prescribe. All administrative and penalty provisions of Title XI of this Act, in so far as applicable, shall apply to the collection of any tax which the Commissioner determines or prescribes shall be paid by stamp.

Failure to pay, collect, account for and pay over tax or to make return or supply information.

SEC. 1308. (a) That any person required under Titles V, VI, VII, VIII, IX, X, or XII, to pay, or to collect, account for and pay over any tax, or required by law or regulations made under authority thereof to make a return or supply any information for the purposes of the computation, assessment or collection of any such tax, who fails to pay, collect, or truly account for and pay over any such tax, make any such return or supply any such information at the time or times required by law or regulation shall in addition to other penalties provided by law be subject to a penalty of not more than \$1,000.

(b) Any person who willfully refuses to pay, collect, or truly account for and pay over any such tax, make

such return or supply such information at the time or times required by law or regulation, or who willfully attempts in any manner to evade such tax shall be guilty of a misdemeanor and in addition to other penalties provided by law shall be fined not more than \$10,000 or imprisoned for not more than one year, or both, together with the costs of prosecution.

(c) Any person who willfully refuses to pay, collect, or truly account for and pay over any such tax shall in addition to other penalties provided by law be liable to a penalty of the amount of the tax evaded, or not paid, collected, or accounted for and paid over, to be assessed and collected in the same manner as taxes are assessed and collected: *Provided, however,* That no penalty shall be assessed under this subdivision for any offense for which a penalty may be assessed under authority of section 3176 of the Revised Statutes, as amended, or of section 605 or 620 of this Act, or for any offense for which a penalty has been recovered under section 3256 of the Revised Statutes.

(d) The term "person" as used in this section includes an officer or employee of a corporation or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

SEC. 1309. That the Commissioner, with the approval of the Secretary, is hereby authorized to make all needful rules and regulations for the enforcement of the provisions of this Act.

Rules and regulations.

The Commissioner with such approval may by regulation provide that any return required by Titles V, VI, VII, VIII, IX, or X to be under oath may, if the amount of the tax covered thereby is not in excess of \$10, be signed or acknowledged before two witnesses instead of under oath.

Attestation to certain returns.

SEC. 1310. (a) That in the case of any overpayment or overcollection of any tax imposed by section 628 or 630 or by Title V, Title VIII, or Title IX, the person making such overpayment or overcollection may take credit therefor against taxes due upon any monthly return, and shall make refund of any excessive amount collected by him upon proper application by the person entitled thereto.

Credit of overpayments or overcollections.

(b) Wherever in this Act a tax is required to be paid by the purchaser to the vendor at the time of a sale, and such sale is made on credit, then, under regulations prescribed by the Commissioner with the approval of the Secretary, the tax may, at the option of the vendor, be returned and paid by him to the United States as if paid to him by the purchaser at the time of the sale, and in such case the vendor shall have a right of action in any court of competent jurisdiction against the purchaser for the amount of the tax so returned and paid to the United States.

Payment of taxes on sales on credit.

Taxes on articles sold or leased for export; refunds.

(c) Under such rules and regulations as the Commissioner with the approval of the Secretary may prescribe, the taxes imposed under the provisions of Titles VI, VII or IX shall not apply in respect to articles sold or leased for export and in due course so exported. Under such rules and regulations the amount of any internal-revenue tax erroneously or illegally collected in respect to exported articles may be refunded to the exporter of the article, instead of to the manufacturer, if the manufacturer waives any claim for the amount so to be refunded.

Use of existing stamps.

SEC. 1311. That where the rate of tax imposed by this Act, payable by stamps, is an increase over previously existing rates, stamps on hand in the collectors' offices and in the Bureau of Internal Revenue may be continued to be used until the supply on hand is exhausted, but shall be sold and accounted for at the rates provided by this Act, and assessment shall be made against manufacturers and other taxpayers having such stamps on hand on the day this Act takes effect for the difference between the amount paid for such stamps and the tax due at the rates provided by this Act.

Payment of taxes by vendee or lessee in certain cases.

SEC. 1312. (1) That (a) if any person has prior to May 9, 1917, made a bona fide contract with a dealer for the sale or lease, after the tax takes effect, of any article in respect to which a tax is imposed under Title VI, VII, or IX, or under subdivision 13 of Schedule A of Title XI, or under this subdivision, and (b) if such contract does not permit the adding of the whole of such tax to the amount to be paid under such contract, then the vendee or lessee shall, in lieu of the vendor or lessor, pay so much of such tax as is not so permitted to be added to the contract price. If a contract of the character above described was made with any person other than a dealer, the tax collected under this Act shall be the tax in force on May 9, 1917.

Same.

(2) If (a) any person has prior to September 3, 1918, made a bona fide contract with a dealer for the sale or lease, after the tax takes effect, of any article in respect to which a tax is imposed under Title VI, VII, or IX, or under subdivision 13 of Schedule A of Title XI, or under this subdivision, and in respect to which no corresponding tax was imposed by the Revenue Act of 1917, and (b) such contract does not permit the adding, to the amount to be paid under such contract, of the whole of the tax imposed by this Act, then the vendee or lessee shall, in lieu of the vendor or lessor, pay so much of the tax imposed by this Act as is not so permitted to be added to the contract price. If a contract of the character above described was made with any person other than a dealer, no tax shall be collected under this Act.

Same.

(3) If (a) any person has prior to September 3, 1918, made a bona fide contract with a dealer for the sale or lease, after the tax takes effect, of any article in respect to which a tax is imposed under Title VI, VII, or IX,

or under subdivision 13 of Schedule A of Title XI, or under this subdivision, and in respect to which a corresponding tax was imposed by the Revenue Act of 1917, and (b) such contract does not permit the adding, to the amount to be paid under such contract, of the whole of the difference between such tax and the corresponding tax imposed by the Revenue Act of 1917, then the vendee or lessee shall, in lieu of the vendor or lessor, pay so much of such difference as is not so permitted to be added to the contract price. If a contract of the character above described was made with any person other than a dealer, the tax collected under this Act shall be the tax in force on September 3, 1918.

(4) The taxes payable by the vendee or lessee under this section shall be paid to the vendor or lessor at the time the sale or lease is consummated, and collected, returned, and paid to the United States by such vendor or lessor in the same manner as provided in section 502.

Same; to whom paid.

(5) The term "dealer" as used in this section includes a vendee who purchases any article with intent to use it in the manufacture or production of another article intended for sale.

Same; "dealer" defined.

(6) This section shall not apply to any tax imposed by section 906.

Same; exception.

SEC. 1313. That in the payment of any tax under this Act not payable by stamp a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

Fractional part of cent disregarded.

SEC. 1314. That collectors may receive, at par with an adjustment for accrued interest, certificates of indebtedness issued by the United States and uncertified checks in payment of income, war-profits and excess-profits taxes and any other taxes payable other than by stamp, during such time and under such regulations as the Commissioner, with the approval of the Secretary, shall prescribe; but if a check so received is not paid by the bank on which it is drawn the person by whom such check has been tendered shall remain liable for the payment of the tax and for all legal penalties and additions the same as if such check had not been tendered.

Certificates of indebtedness and uncertified checks receivable in payment of certain taxes.

Articles 1731 and 1732, Regulations No. 45, relative to acceptance of Treasury certificates of indebtedness, supplemented. (T. Ds. 2907, 2918.) T. Ds. 2907, 2918 superseded. (T. D. 2973.)

SEC. 1318. That if any person is summoned under this Act to appear, to testify, or to produce books, papers or other data, the district court of the United States for the district in which such person resides shall have jurisdiction by appropriate process to compel such attendance, testimony, or production of books, papers, or other data.

Jurisdiction of district courts; compelling attendance of witness or production of books; issue of writs.

The district courts of the United States, at the instance of the United States are hereby invested with such jurisdiction to make and issue, both in actions at law and suits in equity, writs and orders of injunction, and of ne

exeat republica, orders appointing receivers, and such other orders and process, and to render such judgments and decrees, granting in proper cases both legal and equitable relief together, as may be necessary or appropriate for the enforcement of the provisions of this Act. The remedies hereby provided are in addition to and not exclusive of any and all other remedies of the United States in such courts or otherwise to enforce such provisions.

False statements as to tax in connection with sales or leases.

SEC. 1319. That whoever in connection with the sale or lease, or offer for sale or lease, of any article, or for the purpose of making such sale or lease, makes any statement, written or oral, (1) intended or calculated to lead any person to believe that any part of the price at which such article is sold or leased, or offered for sale or lease, consists of a tax imposed under the authority of the United States, or (2) ascribing a particular part of such price to a tax imposed under the authority of the United States, knowing that such statement is false or that the tax is not so great as the portion of such price ascribed to such tax, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$1,000 or by imprisonment not exceeding one year, or both.

TITLE XIV—GENERAL PROVISIONS.

Acts and parts of acts repealed.

SEC. 1400. (a) That the following parts of Acts are hereby repealed, subject to the limitations provided in subdivision (b):

(1) The following titles of the Revenue Act of 1916:

Title I (called "Income Tax");

Title II (called "Estate Tax");

Title III (called "Munitions Manufacturers' Tax"), as amended;

Title IV (called "Miscellaneous Taxes").

(2) The following parts of the Act entitled "An Act to provide increased revenue to defray the expenses of the increased appropriations for the Army and Navy and the extensions of fortifications, and for other purposes," approved March 3, 1917:

Title III (called "Estate Tax");

Section 402 (called "Returns of Dividends").

(3) The following titles of the Revenue Act of 1917:

Title I (called "War Income Tax");

Title II (called "War Excess-Profits Tax");

Title III (called "War Tax on Beverages");

Title IV (called "War Tax on Cigars, Tobacco, and Manufactures Thereof");

Title V (called "War Tax on Facilities Furnished by Public Utilities, and Insurance");

Title VI (called "War Excise Taxes");

Title VII (called "War Tax on Admissions and Dues");

Title VIII (called "War Stamp Taxes");
 Title IX (called "War Estate Tax");
 Title X (called "Administrative Provisions");
 Title XII (called "Income-Tax Amendments").

(b) Such parts of Acts shall remain in force for the assessment and collection of all taxes which have accrued thereunder, and for the imposition and collection of all penalties or forfeitures which have accrued and may accrue in relation to any such taxes, and except that the unexpended balance of any appropriation heretofore made and now available for the administration of any such part of an Act shall be available for the administration of this Act or the corresponding provision thereof: *Provided*, That, except as otherwise provided in this Act, no taxes shall be collected under Title I of the Revenue Act of 1916 as amended by the Revenue Act of 1917, or Title I or II of the Revenue Act of 1917, in respect to any period after December 31, 1917: *Provided further*, That the assessment and collection of all estate taxes, and the imposition and collection of all penalties or forfeitures, which have accrued under Title II of the Revenue Act of 1916 as amended by the Act entitled "An Act to provide increased revenue to defray the expenses of the increased appropriations for the Army and Navy and the extensions of fortifications, and for other purposes," approved March 3, 1917, or Title IX of the Revenue Act of 1917, shall be according to the provisions of Title IV of this Act. In the case of any tax imposed by any part of an Act herein repealed, if there is a tax imposed by this Act in lieu thereof, the provision imposing such tax shall remain in force until the corresponding tax under this Act takes effect under the provisions of this Act.

Repealed acts in force for assessment and collection of taxes, etc.

Title I of the Revenue Act of 1916 as amended by the Revenue Act of 1917 shall remain in force for the assessment and collection of the income tax in Porto Rico and the Philippine Islands, except as may be otherwise provided by their respective legislatures.

SEC. 1402. That if any clause, sentence, paragraph, or part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment has been rendered.

Effect of partial invalidity of act.

SEC. 1405. That this act may be cited as the "Revenue Act of 1918."

Citation of act.

SEC. 1408. That every person who on or after April 6, 1917, has entered into any contract, undertaking, or agreement, with the United States, or with any department, bureau, officer, commission, board, or agency under the United States or acting in its behalf, or with any other person having contract relations with the United

Filing copies of contracts with United States; access by Commissioner of Internal Revenue to data relative to contracts.

States, for the performance of any work or the supplying of any materials or property for the use of or for the account of the United States, shall, within thirty days after a request of the Commissioner therefor, file with the Commissioner a true and correct copy of every such contract, undertaking, or agreement.

Whoever fails to comply with such request of the Commissioner shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than one year, or both.

The Commissioner shall (when not violative of the technical military or naval secrets of the Government) have access to all information and data relating to any such contract, undertaking, or agreement, in the possession, control or custody of any department, bureau, board, agency, officer or commission of the United States, and may call upon any such department, bureau, board, agency, officer or commission for a full statement and description of any allowance for amortization, obsolescence, depreciation or loss, or of any valuation, appraisal, adjustment or final settlement, made in pursuance of any such contract, undertaking, or agreement.

Effective date
of act.

SEC. 1409. That unless otherwise herein specially provided, this Act shall take effect on the day following its passage.

Approved, 6.55 P. M., February 24, 1919.

APPENDIX.

CONTAINING LAWS OF A GENERAL NATURE AND MISCELLANEOUS PROVISIONS APPLICABLE TO THE ADMINISTRATION OF THE INTERNAL-REVENUE LAWS.

CHAPTER 1.

SUITS AND PROSECUTIONS—PRACTICE—LIENS—COMPROMISES AND REMISSIONS—UNITED STATES ATTORNEYS—COMMISSIONERS—CLERKS OF COURTS—REPORTS, ETC.

Jurisdiction of district courts.	Act to regulate liens of judgments and decrees of United States courts.
Jurisdiction of circuit courts.	Interest on judgments, etc.
Suits for penalties, forfeitures, and taxes.	Circuit courts of appeals.
Removal of suits against officers from State to United States circuit courts.	Writs of error and appeals.
Arrests.	Certificate of probable cause.
Competency of witnesses. State laws.	Property taken under revenue laws irrepleviable.
Production of books, papers, etc., in suits other than criminal.	Statute of limitations.
Certified copies of papers admissible as evidence.	Compromises of claims and of cases after judgment. Pardons.
Costs in internal-revenue suits upon information from other than a collector, etc.	Employment of attorneys or counsel.
Costs, when paid by defendant.	Duty of district attorneys to prosecute delinquents and to defend officers.
Laws of the States, rules of decision, etc.	Reports of district attorneys and marshals.
Proceedings on execution. State laws.	Warrants of arrest and prosecutions.
	Clerks of courts, reports of, etc.

NOTE.—“The Judicial Code,” an Act to codify, revise and amend the laws relating to the judiciary, approved March 3, 1911 (36 Stat. 1087) went into effect January 1, 1912. It abolished circuit courts (Sec. 289) and imposed the powers and duties upon district courts.

Several of the sections in this chapter from the Revised Statutes are superseded as such and reproduced as noted. The provisions, so far as they are substantially the same as existing statutes, are construed as continuations thereof and not as new enactments. (Sec. 294).

Jurisdiction of district courts.

SEC. 24. [*Act of March 3, 1911, “Judicial Code” (36 Stat., 1087).*] The district courts shall have original jurisdiction as follows:

First. Of all suits of a civil nature, at common law or in equity, brought by the United States, or by any officer thereof authorized by law to sue, or between citizens of the same State claiming lands under grants from different States; or, where the matter in controversy exceeds, exclusive of interest and costs, the sum or value of three thousand dollars, and (a) arises under the Constitution or laws of the United States, or treaties made, or which shall be made, under

their authority: *Provided, however,* That the foregoing provision as to the sum or value of the matter in controversy shall not be construed to apply to any of the cases mentioned in the succeeding paragraphs of this section.

Second. Of all crimes and offenses cognizable under the authority of the United States.

Third. * * * Of all seizures on land or waters not within admiralty and maritime jurisdiction.

Coffey v. United States (116 U. S., 427; 117 Id., 233).

Fifth. Of all cases arising under any law providing for internal revenue.

Ninth. Of all suits and proceedings for the enforcement of penalties and forfeitures incurred under any law of the United States.

Eleventh. Of all suits brought by any person to recover damages for any injury to his person or property on account of any act done by him, under any law of the United States, for the protection or collection of any of the revenues thereof.

Twentieth. Concurrent with the Court of Claims, of all claims not exceeding ten thousand dollars founded upon the Constitution of the United States or any law of Congress, or upon any regulation of an Executive Department, or upon any contract, express or implied, with the Government of the United States, or for damages, liquidated or unliquidated, in cases not sounding in tort, in respect to which claims the party would be entitled to redress against the United States, either in a court of law, equity, or admiralty, if the United States were suable, and of all set-offs, counterclaims, claims for damages, whether liquidated or unliquidated, or other demands whatsoever on the part of the Government of the United States against any claimant against the Government in said court: *Provided, however,* That nothing in this paragraph shall be construed as giving to either the district courts or the Court of Claims jurisdiction to hear and determine claims growing out of the late Civil War, and commonly known as "war claims," or to hear and determine other claims which had been rejected or reported on adversely prior to the third day of March, eighteen hundred and eighty-seven, by any court, department, or commission authorized to hear and determine the same, or to hear and determine claims for pensions; or as giving to the district courts jurisdiction of cases brought to recover fees, salary, or compensation for official services of officers of the United States or brought for such purpose by persons claiming as such officers or as assignees or legal representatives thereof; but no suit pending on the twenty-seventh day of June, eighteen hundred and ninety-eight, shall abate or be affected by this provision: *And provided further,* That no suit against the Government of the United States shall be allowed under this paragraph unless the same shall have been brought within six years after the right accrued for which the claim is made. * * * All

suits brought and tried under the provisions of this paragraph shall be tried by the court without a jury.

The original judiciary act of September 24, 1789, remained in force with scarcely any modification until the act of March 3, 1875, which greatly enlarged the jurisdiction of the circuit courts (amended by the act of March 3, 1887; corrected by the act of August 13, 1888, passed to cure defects in the enrollment of the act of March 3, 1887).

The District Court, sitting as a court of claims, under Section 24 of the Judicial Code of March 3, 1911, has jurisdiction over claims against the United States for refunding taxes paid under the Corporation Tax Act of August 5, 1909, under duress and protest to the collector and by him turned over to the United States. (*United States v. Emery, Bird, Thayer Realty Co.*, 237 U. S. 28; T. D. 2180.)

Exclusive jurisdiction of courts of United States.

SEC. 256. [*Act of March 3, 1911, "Judicial Code" (36 Stat., 1087).*] The jurisdiction vested in the courts of the United States in the cases and proceedings hereinafter mentioned shall be exclusive of the courts of the several States:

First. Of all crimes and offenses cognizable under the authority of the United States.

Second. Of all suits for penalties and forfeitures incurred under the laws of the United States.

Third. Of all civil causes of admiralty and maritime jurisdiction; saving to suitors, in all cases, the right of a common-law remedy, where the common law is competent to give it.

Fourth. Of all seizures under the laws of the United States on land or on waters not within admiralty and maritime jurisdiction.

* * * * *

Section 711, Revised Statutes, reenacted.

The Supreme Court is the only court of the United States which derives any part of its power directly from the Constitution. The circuit and district courts of the United States are, by authority of the Constitution, the creatures of the National Legislature, having such jurisdiction, and only such, as Congress has been pleased to confer upon them, and having no common-law jurisdiction, though drawing upon the common law for modes of procedure and practice when necessary to carry into effect the jurisdiction given by statute. (*United States v. Cultus Joe*, 15 Int. Rev. Rec., 58.)

In general a crime against the laws of the United States is not cognizable in a State court. (*Ex parte Houghton*, 27 Int. Rev. Rec., 273.)

The same offense may be made punishable both under the laws of a State and of the United States; and over such offenses the State and Federal courts have concurrent jurisdiction. (*United States v. Wells*, 15 Int. Rev. Rec., 56; Fed. Cas. No. 16665.)

The same act may be punished in both jurisdictions; one is not a bar to the other. (*Southern Ry. Co. v. Railroad Commission of Indiana*, 236 U. S., 439.)

Where a State court and a United States court may each take jurisdiction, the tribunal which first gets it holds it to the exclusion of the other until its duty is fully performed. (*Covell v. Heyman*, 111 U. S., 182.)

The same act may constitute an offense against the United States and against a State, subjecting the guilty party to punishment under the laws of each Government; and may embrace two or more offenses. (*Cross v. North Carolina*, 132 U. S., 131, and cases cited. And see *Teal v. Felton*, 12 How., 284, 292; *Crossley v. California*, 168 U. S., 641.)

There are no common-law offenses against the United States. (*United States v. Gibson*, 47 Fed., 833.)

Where there is a conflict between State and Federal statutes, the latter will prevail. (*Chicago, Ind., and L. Ry. Co. v. United States*, 219 U. S., 486.)

A State court has no authority to enjoin the proceedings of a Federal court. (*Central National Bank, Boston, v. Hazard*, 49 Fed., 293.)

Conflicting State and Federal jurisdiction. (*Booth v. St. Louis Fire Engine Manufacturing Co.*, 40 Fed., 1.)

Jurisdiction where a federal question is involved. (*Adams Express Co. v. Michigan*, 177 U. S., 404.)

Offenses begun in one district and completed in another.

SEC. 42. [*Act of March 3, 1911, "Judicial Code" (36 Stat., 1087).*] When any offense against the United States is begun in one judicial district and completed in another, it shall be deemed to have been committed in either, and may be dealt with, inquired of, tried, determined, and punished in either district, in the same manner as if it had been actually and wholly committed therein.

Section 731, R. S., reenacted.

The court of the district where the res is seized has jurisdiction though the violation of law occurred in another State. (*United States v. 398 Barrels of Distilled Spirits*, 3 Int. Rev. Rec., 114; *Fed. Cas. No. 16502*; *United States v. Sherry*, 10 Int. Rev. Rec., 205; *Fed. Cas. No. 16369*.)

Suits for taxes, penalties, or forfeitures to be brought in the name of the United States.

SEC. 919. All suits for the recovery of any duties, imposts, or taxes, or for the enforcement of any penalty or forfeiture provided by any act respecting imports or tonnage, or the registering and recording or enrolling and licensing of vessels, or the internal revenue, or direct taxes, and all suits arising under the postal laws, shall be brought in the name of the United States.

Where suits for penalties, forfeitures, and taxes are to be brought.

SEC. 43. [*Act of March 3, 1911, "Judicial Code" (36 Stat., 1087).*] All pecuniary penalties and forfeitures may be sued for and recovered either in the district where they accrue or in the district where the offender is found.

Section 732, R. S., reenacted.

SEC. 44. [*Act of March 3, 1911, "Judicial Code" (36 Stat., 1087).*] Taxes accruing under any law providing internal revenue may be sued for and recovered either in the district where the liability for such tax occurs or in the district where the delinquent resides.

Section 733, R. S., reenacted.

See section 3213, R. S., p. 132.

United States v. New York, New Haven & Hartford Railroad Co. (10 Ben., 144; 24 Int. Rev. Rec., 341). *The Dollar Savings Bank v. United States* (19 Wall., 227; 22 Int. Rev. Rec. 310).

Jurisdiction in case of actions on deputy collectors' bonds. (Sec. 3148, p. 76.)

Officers suffering injuries may maintain suits for damages in the United States court of the district where the party resides or may be found. (Sec. 3171, p. 101.)

Jury may be waived in the trial of petty offenses. (*Shick v. United States*, 195 U. S., 65.)

Residence of a corporation. (*Booth et al. v. St. Louis Fire Engine Manufacturing Co.*, 40 Fed., 1.)

Residence of a railroad corporation. (*Galveston v. Gonzales*, 151 U. S., 496.)

Penal offenses created by the statute, whether prosecuted by indictment or information, must be accurately and clearly described in the

pleadings for recovery of the penalty. (*United States v. Mann*, 24 Int. Rev. Rec., 20; 95 U. S., 580.)

When the crime is a statutory one, the offense must be charged with precision and certainty. (*Ledbetter v. United States*, 170 U. S. 606.)

The accused must be apprised by the indictment, with reasonable certainty, of the nature of the accusation against him. (*United States v. Simmons*, 98 U. S., 360.)

Essentials of an indictment. (*United States v. Green*, 136 Fed., 618; *Brown v. United States*, 143 Fed., 60.)

An indictment charging in the language of the statute sufficient without setting out the particular acts. (*Hardesty v. United States*, 168 Fed., 25.)

Indictment of a corporation. The only punishment which can be inflicted upon a corporation is a fine. (*John Gund Brewing Co. v. United States*, 204 Fed., 20.)

Defects in indictment may be overcome by bill of particulars. (*United States v. Thompson*, 189 Fed., 838.)

Technical objections are not regarded with as much favor as at one time. (*John Gund Brewing Co. v. United States*, 240 Fed., 20.)

Persons not to be arrested in one district for trial in another in civil actions.

SEC 1. [*Act of August 13, 1888 (25 Stat., 433)*, amending act of *March 3, 1875 (18 Stat., 470)*.] But no person shall be arrested in one district for trial in another in any civil action before a circuit or district court; and no civil suit shall be brought before either of said courts against any person by any original process or proceeding in any other district than that whereof he is an inhabitant, but where the jurisdiction is founded only on the fact that the action is between citizens of different States, suit shall be brought only in the district of the residence of either the plaintiff or the defendant.

* * *

Superseded by section 51 of the Judicial Code.

SEC 51. [*Act of March 3, 1911, "Judicial Code" (36 Stat., 1087)*.] Except as provided in the five succeeding sections, no person shall be arrested in one district for trial in another, in any civil action before a district court; and, except as provided in the six succeeding sections, no civil suit shall be brought in any district court against any person by any original process or proceeding in any other district than that whereof he is an inhabitant; but where the jurisdiction is founded only on the fact that the action is between citizens of different States, suit shall be brought only in the district of the residence of either the plaintiff or the defendant.

A corporation may be indicted for the acts of its officers or employees. (*United States v. Baltimore & Ohio R. R. Co.*, 8 Int. Rev. Rec., 148; Fed. Cas. No. 14509.)

Suit against foreign corporations doing business in a State. (*Wilson Packing Co. v. Hunter*, 25 Int. Rev. Rec., 137; Fed. Cas. No. 17852.)

Foreign corporations, where to be sued. (*Mohr & Mohr Distilling Co. v. Sundry Insurance Companies*, 28 Int. Rev. Rec., 218.)

Service of process on nonresident defendant during compulsory attendance illegal. (*United States v. Bridgman*, 26 Int. Rev. Rec., 139; Fed. Cas. 14645.) Also where fraud is used to induce defendant to come within jurisdiction of court (*Steiger v. Bonn*, 26 Int. Rev. Rec., 365). A party going into another State as witness exempt from process (*Brooks v. Farwell*, 26 Int. Rev. Rec., 355).

Sections 50 and 53, Judicial Code, provide for cases where there are two or more defendants residing in different districts.

In conspiracy to defraud, the parties may be tried in any district where the conspiracy is committed or an overt act done in pursuance of the illegal purpose. (*United States v. Rindskopf*, 6 Biss., 259; Fed. Cas. 16165.)

Removal of suits or prosecutions against officers from State courts to United States courts.

SEC. 33. [*Act of March 3, 1911, "Judicial Code" (36 Stat., 1087), amended by act of August 23, 1916 (39 Stat., 532).*] That when any civil suit or criminal prosecution is commenced in any court of a State against any officer appointed under or acting by authority of any revenue law of the United States now or hereafter enacted, or against any person acting under or by authority of any such officer, on account of any act done under color of his office or of any such law, or on account of any right, title, or authority claimed by such officer or other person under any such law, or is commenced against any person holding property or estate by title derived from any such officer and affects the validity of any such revenue law, or against any officer of the courts of the United States for or on account of any act done under color of his office or in the performance of his duties as such officer, or when any civil suit or criminal prosecution is commenced against any person for or on account of anything done by him while an officer of either House of Congress in the discharge of his official duty in executing any order of such House, the said suit or prosecution may at any time before the trial or final hearing thereof be removed for trial into the district court next to be holden in the district where the same is pending upon the petition of such defendant to said district court and in the following manner: Said petition shall set forth the nature of the suit or prosecution and be verified by affidavit and, together with a certificate signed by an attorney or counselor at law of some court of record of the State where such suit or prosecution is commenced or of the United States stating that, as counsel for the petitioner, he has examined the proceedings against him and carefully inquired into all the matters set forth in the petition, and that he believes them to be true, shall be presented to the said district court, if in session, or if it be not, to the clerk thereof at his office, and shall be filed in said office. The cause shall thereupon be entered on the docket of the district court and shall proceed as a cause originally commenced in that court; but all bail and other security given upon such suit or prosecution shall continue in like force and effect as if the same had proceeded to final judgment and execution in the State court. When the suit is commenced in the State court by summons, subpoena, petition, or any other process except *capias*, the clerk of the district court shall issue a writ of *certiorari* to the State court requiring it to send to the district court the record and the proceedings in the cause. When it is commenced by *capias* or by any other similar form of proceeding by which a personal arrest is ordered, he shall issue a writ of *habeas corpus cum causa*, a duplicate of which shall be delivered to the clerk of the State court or left at his office by the marshal of the district or his deputy or by some other person duly authorized thereto; and thereupon it shall be the duty of the State court to stay all further proceedings in the cause, and the suit or prosecution, upon delivery of such process, or leaving the same as aforesaid, shall be held to be removed to the district court, and any further proceedings, trial, or judgment therein in the State court shall be void. If the defendant in the suit or prosecution be in actual custody on mesne process therein, it shall be the duty of the marshal, by virtue of the writ of *habeas corpus cum causa*, to take the body of the defendant into his custody, to be dealt with in the cause according to law and the order of the district

court, or, in vacation, of any judge thereof; and if, upon the removal of such suit or prosecution, it is made to appear to the district court that no copy of the record and proceedings therein in the State court can be obtained, the district court may allow and require the plaintiff to proceed de novo and to file a declaration of his cause of action, and the parties may thereupon proceed as in actions originally brought in said district court. On failure of the plaintiff so to proceed, judgment of non prosequitur may be rendered against him, with costs for the defendant.

The act of 1833 providing for the removal of proceedings against Federal revenue officers (4 Stat. 633), included in section 643, R. S., was repealed by the "Judicial Code," and reenacted as section 33.

Jurisdiction may be waived. (*In re Moore*, 209 U. S., 490.)

United States officer not liable to criminal prosecution in State court for acts done in official capacity. (*In re Waite*, 81 Fed., 359.)

Under the provision that "any further proceeding, trial, or judgment therein in the State court shall be void," an indictment found in a State court after the removal of the cause to the United States Circuit Court was null; and where, upon habeas corpus cum causa, it appears that the prisoners were in the discharge of their duty as revenue officers of the United States when the act was committed, and were without fault, they will be discharged. (*State of North Carolina v. Kirkpatrick et al.*, 42 Fed. 689; 36 Int. Rev. Rec., 133.)

This act is constitutional. (*State v. Hoskins et al.*, 23 Int. Rev. Rec., 263; 77 N. C., 530.)

Removal of criminal case. (*Tennessee v. Davis*, 100 U. S., 257; 26 Int. Rev. Rec., 90; *Virginia v. De Hart*, 119 Fed., 626.)

Case of a guard acting in aid of a marshal. (*Davis v. South Carolina*, 107 U. S., 597; 29 Int. Rev. Rec., 189.)

Habeas corpus: The writ can not be sustained if issued by State court to inquire into detention of a person by a United States officer. Conflict between State and United States courts. (*Tarble's Case*, 13 Wall., 397; 15 Int. Rev. Rec., 135; dissenting opinion by Chief Justice Chase, 15 Id., 193.)

A summary proceeding by a landlord to recover from a lessee possession of premises used as a bonded warehouse, to which proceeding the collector of internal revenue and a United States storekeeper are made parties defendant, and described as undertenants holding over, is removable to a Federal court under this section. (*Gallatin v. Sherman et al.*, 77 Fed., 337.)

When a prosecution can be deemed to be commenced within the meaning of the acts of Congress authorizing removal from State courts to United States courts for trial. (*Virginia v. Paul*, 148 U. S., 107.)

A criminal prosecution is commenced as soon as a warrant has been issued and is then removable into the United States circuit court. (*State of Georgia v. Bolton*, 11 Fed., 217.)

The removal of a prosecution against a United States revenue officer from a State to a Federal court is effected, and complete jurisdiction acquired, immediately upon the filing of a proper petition therefor in the clerk's office of the Federal court. (*State v. Sullivan*, 50 Fed., 593.)

Expenses accruing in a local court in action against a collector before being transferred to a Federal court are payable from the appropriation "Miscellaneous expenses, Internal-Revenue Service. (Comp. MS. Dec., April 11, 1907, case of *Cureton v. Rucker*.)

Circuit Court of Appeals has no jurisdiction of suit by one railroad company against another and a collector of internal revenue to determine liability for income tax on certain dividends as between the two companies, where controversy depends wholly on construction of lease executed by plaintiff railroad to defendant, both being citizens of New York, whose courts may determine controversy, unless collector should remove case under section 33 of Judicial Code. (*Rensselaer & Saratoga R. Co. v. Delaware & Hudson Co.*, 257 Fed., 555.)

This section does not apply to petition by Federal officer in custody of State officials charged with offense against State laws, committed in performance of his official duties. (*Ex parte Beach*, 259 Fed., 956.)

Charges which may be joined in one indictment.

SEC. 1024. When there are several charges against any person for the same act or transaction, or for two or more acts or transactions connected together, or for two or more acts or transactions of the same class of crimes or offenses, which may be properly joined, instead of having several indictments the whole may be joined in one indictment in separate counts; and if two or more indictments are found in such cases, the court may order them to be consolidated.

Although section 3397 designates as felonies some of the offenses specified in it, and omits to designate others as felonies, offenses of each class, which arise out of one and the same transaction, may, under section 1024, be charged in one indictment in different counts. (*United States v. Louis Jacoby*, 12 Blatch., 491; Fed. Cas. No. 15462.)

Several charges may be joined in one indictment in separate counts, but the accused shall not be tried at the same time for different offenses; and an indictment charging the accused in one count with carrying on the business of a retail liquor dealer without having paid the special tax, and in another with dealing in manufactured tobacco without payment of the special tax, will be quashed. (*United States v. Gaston*, 28 Fed., 848.)

The subject of the joinder of distinct offenses in one indictment against the same person fully examined. (*Pointer v. United States*, 151 U. S., 396; *Williams v. United States*, 168 U. S., 390; *United States v. McGuire*, 22 Int. Rev. Rec., 146; Fed. Cas. No. 15708.)

The statute, in permitting the joinder of different offenses in a single indictment, by necessary implication authorizes a separate punishment for each offense proved. (*United States v. Bennett*, 17 Blachf., 357; Fed. Cas. 14572; 26 Int. Rev. Rec., 45.)

Each count is in fact a separate indictment. (*United States v. Malone*, 9 Fed., 597.)

Consolidation of indictments. (*United States v. Green*, 146 Fed., 781.)

Felonies defined. All offenses which may be punished by death, or imprisonment for a term exceeding one year, shall be deemed felonies. All other offenses shall be deemed misdemeanors. (Sec. 335, act of March 4, 1909, 35 Stat., 1152, Criminal Code.)

There can be no constructive offenses. (*United States v. Lacher*, 134 U. S., 624.)

Statutes creating and defining crimes can not be extended by indictment. (*Todd v. United States*, 158 U. S., 282.)

Where two counts constitute but one offense a conviction can be had only on one. (*May v. United States*, 199 Fed., 53; T. D. 1798.)

Offenders against the United States, how arrested and removed for trial—Warrants may be issued by State officers.

SEC. 1014. For any crime or offense against the United States, the offender may, by any justice or judge of the United States, or by any commissioner of a circuit court to take bail, or by any chancellor, judge of a supreme or superior court, chief or first judge of common pleas, mayor of a city, justice of the peace, or other magistrate, of any State where he may be found, and agreeably to the usual mode of process against offenders in such State, and at the expense of the United States, be arrested and imprisoned, or bailed, as the case may be, for trial before such court of the United States as by law has cognizance of the offense. Copies of the process shall be returned as speedily as may be into the clerk's office of such court, together with the recognizances of the witnesses for their appearance to testify in the case. And where any offender or witness is committed in any district other than that where the offense is to be tried, it shall be the duty of the judge of the district where such offender or witness

is imprisoned, seasonably to issue, and of the marshal to execute, a warrant for his removal to the district where the trial is to be had.

Marshal can not be aided by the military. (Sec. 15, act of June 18, 1878 (20 Stat., 152); 16 Op. Atty. Gen., 162.)

A person arrested in one district may be held to bail for trial in another upon a certified copy of an indictment which has been found against him in such other district. (United States v. Pope, 24 Int. Rev. Rec., 29; Fed. Cas. No. 16069.)

A preliminary examination before a commissioner is not a proceeding in court. (Todd v. United States, 158 U. S., 278.)

Powers of United States commissioner. (United States v. Berry, 26 Int. Rev. Rec., 405; United States v. Allred, 155 U. S., 594.)

The powers exercised by a United States commissioner in the examination of a person charged with an offense are those common to all examining magistrates. To authorize him to commit he need not be convinced of the guilt of the accused, but the proof should be such as to afford good reason to believe that the offense was committed, and by the accused; otherwise it is his duty to discharge. (Ex parte Jones, 96 Fed., 200.)

Warrants of arrest, page 659.

Section 1014 made applicable to the Philippine Islands. Act of February 9, 1903 (32 Stat., 806).

Marshal to take prisoner to nearest judicial officer, page 660.

Laws of the State constitute rules of decision as to competency of witnesses.

SEC. 858. [*Amended by act of June 29, 1906 (34 Stat., 618).*] The competency of a witness to testify in any civil action, suit, or proceeding in the courts of the United States shall be determined by the laws of the State or Territory in which the court is held.

Persons charged with crime can be witnesses in their own behalf.

Act of March 18, 1878. (20 Stat., 80.)

That in the trial of all indictments, informations, complaints, and other proceedings against persons charged with the commission of crimes, offenses, and misdemeanors, in the United States courts, Territorial courts, and courts-martial, and courts of inquiry, in any State or Territory, including the District of Columbia, the person so charged shall, at his own request, but not otherwise, be a competent witness.

And his failure to make such request shall not create any presumption against him.

Accomplices used as witnesses; rule as to prosecution. (United States v. Ford, Whiskey Cases, 99 U. S. (9 Otto), 594; 25 Int. Rev. Rec., 127.)

Constitutional rights of witnesses who testify in their own behalf. (John Powers v. United States, 223 U. S., 303.)

Failure to testify. (Diggs v. United States, 220 Fed., 545.)

The evidence of an accomplice is competent. If corroborated by other witnesses, credit is to be given to it. (United States v. Whalen et al., 7 Int. Rev. Rec., 161; Fed. Cas. No. 16669; United States v. Callicott, 7 Id., 179; Fed. Cas. No. 14700.)

Confessions inadmissible unless voluntary and no coercion. (United States v. Wilson, 163 Fed., 338; Bram v. United States, 168 U. S., 543.)

No person shall be compelled in any criminal case to be a witness against himself. Fifth amendment to Constitution. (In re Mark Strouse, 11 Int. Rev. Rec., 182; Fed. Cas. No. 13548; In re Phillips, 10 Int. Rev. Rec., 107; Fed. Cas. No. 11098.)

An officer of a corporation is not privileged from giving testimony as a witness because it may tend to convict the corporation of a penal offense. (London v. Everett H. Dunbar Corporation, 179 Fed., 506.)

Production of books, papers, etc., in suits other than criminal.

SEC. 5. [*Act of June 22, 1874 (18 Stat., 187).*] That in all suits and proceedings other than criminal arising under any of the revenue-laws of the United States, the attorney representing the Government, whenever, in his belief, any business-book, invoice, or paper, belonging to or under the control of the defendant or claimant, will tend to prove any allegation made by the United States, may make a written motion, particularly describing such book, invoice, or paper, and setting forth the allegation which he expects to prove; and thereupon the court in which suit or proceeding is pending may, at its discretion, issue a notice to the defendant or claimant to produce such book, invoice, or paper in court, at a day and hour to be specified in said notice, which, together with a copy of said motion, shall be served formally on the defendant or claimant by the United States marshal by delivering to him a certified copy thereof, or otherwise serving the same as original notices of suit in the same court are served; and if the defendant or claimant shall fail or refuse to produce such book, invoice, or paper in obedience to such notice, the allegation stated in the said motion shall be taken as confessed unless his failure or refusal to produce the same shall be explained to the satisfaction of the court. And if produced, the said attorney shall be permitted, under the direction of the court, to make examination (at which examination the defendant or claimant, or his agent, may be present) of such entries in said book, invoice, or paper as relate to or tend to prove the allegation aforesaid, and may offer the same in evidence on behalf of the United States.

But the owner of said books and papers, his agent or attorney, shall have, subject to the order of the court, the custody of them, except pending their examination in court as aforesaid.

This act not repugnant to the Constitution. (*United States v. Three Tons of Coal*, 21 Int. Rev. Rec., 251; Fed. Cas. No. 16515.)

This section applies to proceedings under the internal-revenue laws as well as the customs-revenue laws. The act is constitutional. (*United States v. Distillery No. 28 and Other Property*, 21 Int. Rev. Rec., 366; Fed. Cas. No. 14966.)

A compulsory production of a person's private papers to be used as evidence against him in a proceeding to forfeit his property for alleged fraud against the revenue laws is an "unreasonable search or seizure" within the meaning of the fourth amendment to the Constitution. (*Boyd v. United States*, 116 U. S., 617; 32 Int. Rev. Rec., 62.)

The power to compel the production of books and papers covers such documents only as would be. "If produced, competent material evidence for the party applying therefor." It does not permit the inquisition into private records on the mere possibility that something may be found to refresh the recollection of a witness, such records not being in themselves relevant to the case. (*United States v. Tilden*, 25 Int. Rev. Rec., 352; Fed. Cas. No. 16522.)

Searches and seizures. (*Hale v. Henkel*, 201 U. S., 43; *Weeks v. United States*, 232 U. S., 383; T. D. 1964.)

Section 724, R. S., as to power to produce books and papers in action at law. (*Carpenter v. Winn*, 221 U. S., 533.)

Certified copies of papers admissible as evidence.

SEC. 882. Copies of any books, records, papers, or documents in any of the Executive Departments, authenticated under the seals of

such Departments, respectively, shall be admitted in evidence equally with the originals thereof.

As to transcripts from books in suits against delinquent officers. (Secs. 886, 887, pp. 671, 672.)

Abstract from records can be introduced as evidence. (*Hart v. United States*, 183 Fed., 368.)

Typewritten letter signed with stencil inadmissible as evidence, unless acknowledged. (*Sprinkle v. United States*, 150 Fed., 56.)

The proper mode of proving papers on file in the Departments is by procuring certified copies. (*Barnes v. Schmelder*, 9 Wall., 253.)

Documents not official do not by the mere fact of certification become so authenticated as to entitle them to be read in evidence. (*Block v. United States*, 7 Ct. Cls., 406.)

In the matter of the application of a private person for a certified copy of records and files of Department. (30 Int. Rev. Rec., 382.)

No information in regard to transactions of an official character in this Department is to be communicated to anyone not authorized to receive the same.

No information in regard to the claim of any person which has ever been filed in the Department is to be given to any other person, unless proper authority is shown by way of power of attorney, or by letters of administration, or otherwise in a manner satisfactory to the Secretary, or an Assistant Secretary, or to the head of the proper Bureau in the Department, or chief of the proper division in the Secretary's office. (Department Rule IX; Dept. Cir., No. 69, July 5, 1906.)

In all cases where copies of documents or records are desired by, or on behalf of, parties to a suit, whether in a court of the United States or any other, such copies shall be furnished to the court only, and on a rule of the court upon the Secretary of the Treasury requesting the same. Exceptions to this rule will be made only on the written order of the Secretary or of an Assistant Secretary. (Department Rule IX.)

The records in the office of collector of customs respecting the entry, liquidation, and payment of duties are so far public records that the importer has a right to inspect them when they relate to his importations. (*United States v. Benjamin H. Hutton and Charles G. Landon*, 25 Int. Rev. Rec., 57; Fed. Cas. No. 15433.)

Official communications privileged from disclosure on the ground of public policy. (*Gardner v. Anderson*, 22 Int. Rev. Rec., 41; Fed. Cas. No. 5220.)

Privileged records, documents, or communications. (*Shattuc v. McArthur*, 25 Fed., 137, note 2; 15 Op. Atty. Gen., 415, 562; 16 Id., 24; 24 Int. Rev. Rec., 178; papers upon which an assessment is made.)

Official records not to be furnished for use of private litigants in State court. (T. D. 224.)

A subpoena duces tecum, issued by a State court, was served upon a district attorney, requiring him to appear as a witness in a private suit and bring with him all letters and telegrams received from the Commissioner of Internal Revenue relative to certain causes then pending in a United States court on indictments under the internal-revenue laws. Advised that it would be proper for the attorney to appear before the State court in obedience to the writ, and there object to produce the papers on the ground that they are privileged, if, in his judgment or in that of the Commissioner, their production would be prejudicial to the public interests. (15 Op. Atty. Gen., 378; 23 Int. Rev. Rec., 341.)

The head of an executive department may legally prohibit the chief of a bureau from producing in court any official records of the department, or certified copies thereof, in obedience to a subpoena duces tecum, and from making or certifying copies of such official records.

The records of executive departments are quasi-confidential in their nature, and must be classed as privileged communications whose production can not be compelled by a court without express authority of law. (25 Op. Atty. Gen., 328.)

Officers of the executive departments can not be required to remove records or papers filed therein by subpoena duces tecum. (5 Lawrence Dec., 446.)

The Federal courts have jurisdiction, under section 753, to issue writ for the purpose of releasing a deputy revenue collector from imprisonment for alleged contempt of a State court in refusing to testify to the contents of the records of the internal-revenue office. (*In re Huttman*, 70 Fed., 700; 41 Int. Rev. Rec., 477.)

An instruction issued by the Commissioner of Internal Revenue directing collectors and their deputies to refuse to produce, in criminal prosecutions of liquor dealers in the State courts, the returns made to the collectors, or the lists showing payments of Federal liquor taxes, or to give information derived from official sources as to the fact of such payments, is valid. (*In re Weeks*, Vermont (1897), 82 Fed., 729; 43 Int. Rev. Rec., 393; *Boske v. Comingore*, 177 U. S., 459; T. D., 104; *In re Lamberton*, 124 Fed., 446; T. D., 689; *Stegall v. Thurman*, 175 Fed., 813; T. D., 1616; *In re Comingore*, 96 Fed., 552; T. D., 21584.)

Costs in internal-revenue suits upon information from other than collector, etc.

SEC. 969. When a suit for the recovery of any penalty or forfeiture accruing under any law providing internal revenue is brought upon information received from any person other than a collector, deputy collector, or inspector of internal revenue, the United States shall not be subject to any costs of suit.

Similar provision in section 3214, p. 134.

Costs when several actions are brought which might be joined in one. (Secs. 977, 980.)

Costs when paid by defendant.

SEC. 974. When judgment is rendered against the defendant in a prosecution for any fine or forfeiture incurred under a statute of the United States, he shall be subject to the payment of costs; and on every conviction for any other offense not capital, the court may in its discretion award that the defendant shall pay the costs of the prosecution.

The word "defendant" held to include a claimant in an action in rem for forfeiture. (*United States v. Seven Barrels Distilled Oil*, 8 Int. Rev. Rec., 162; Fed. Cas. No. 16253a.)

Section 17 of the act of May 28, 1896 (29 Stat., 178), relative to salaries of district attorneys, provides that the act is not to be so construed as to prevent or affect the amount of taxation of costs against the unsuccessful party in civil proceedings or against defendants convicted of crimes or misdemeanors.

Laws of the States, rules of decision.

SEC. 721. The laws of the several States, except where the Constitution, treaties, or statutes of the United States otherwise require or provide, shall be regarded as rules of decision in trials at common law, in the courts of the United States, in cases where they apply.

The above provision is not applicable to proceedings in equity, or in admiralty, or to criminal offenses against the United States. (*Bucher v. Cheshire Railroad Co.*, 125 U. S., 555.)

The courts of the United States are governed by the rules of the common law, because the common law is in force in the State or Territory where the cause of action arose or is to be enforced, and not because the common law has been adopted by the United States, or has under the laws of the United States any binding force, except as being the law of some State, Territory, or District. (*United States v. Garlinghouse et al.*, 11 Int. Rev. Rec., 11; Fed. Cas. No. 15189.)

Federal courts are bound to follow the decisions of the State courts construing their own constitution or statutes. (*Mooney v. Humphrey*, 28 Int. Rev. Rec., 343.)

How far decisions of the highest courts of a State on State laws are binding on Supreme Court of United States. (*Burgess v. Seligman*, 107 U. S., 20.)

See section 858, Revised Statutes, amended, page 643, as to laws of the State being rules of decision as to competency of witnesses.

Practice conforms to forms and modes of proceeding in State courts.

SEC. 914. The practice, pleadings, and forms and modes of proceeding in civil causes other than equity and admiralty causes, in the [circuit and] district courts, shall conform, as near as may be, to the practice, pleadings, and forms and modes of proceeding existing at the time in like causes in the courts of record of the State within which such [circuit or] district courts are held, any rule of court to the contrary notwithstanding.

The words in brackets inoperative on account of the abolition of circuit courts.

Sage v. Tauszky (24 Int. Rev. Rec., 12; Fed. Cas. 12214).

In re Secretary of Treasury (45 Fed., 396; Fed. Cas. No. 14837).

United States v. Collins (18 Int. Rev. Rec., 69).

Nudd v. Burrows (91 U. S., 441).

Trial upon an agreed statement of facts. Sections 649 and 700, R. S.

Proceedings on execution governed by State laws.

SEC. 916. The party recovering a judgment in any common-law cause in any [circuit or] district court, shall be entitled to similar remedies upon the same, by execution or otherwise, to reach the property of the judgment debtor, as are now provided in like causes by the laws of the State in which such court is held, or by any such laws hereafter enacted, which may be adopted by general rules of such circuit or district court; and such courts may, from time to time, by general rules, adopt such State laws as may hereafter be in force in such State in relation to remedies upon judgments, as aforesaid, by execution or otherwise.

The words in brackets inoperative on account of the abolition of circuit courts.

Collection of judgments for fines and penalties (sec. 1041). (*Case of Louis Teuscher*, 23 Int. Rev. Rec., 202; Fed. Cas. No. 13846.) Poor convicts law (sec. 1042).

State exemption laws govern. (*Fink v. O'Neill*, 106 U. S. (16 Otto), 272; 28 Int. Rev. Rec., 405.)

Homestead exemption. (*Allen v. Clark*, 126 Fed., 738, affirming 114 Fed., 374 and 117 Id., 679.)

Judgment can not be opened at a term subsequent to that at which it was entered. (*Bronson v. Schulten*, 104 U. S. (14 Otto), 410; 28 Int. Rev. Rec., 231.)

Judgment can not be vacated after the expiration of the term. (*Forty Fort Coal Co. v. Kirkendall*, 233 Fed., 704.)

If plaintiff and defendant agree, judgment may be set aside at a subsequent term. (*Seat. administrator, v. United States*, 18 Ct. Clms., 468.)

Not lawful to employ any part of the United States Army as a posse comitatus. (Act June 18, 1878 (20 Stat., 152); 16 Op. Atty. Gen., 162.)

Redemption of lands sold under execution, local laws govern. (*Brine v. Hartford Fire Insurance Co.*, 96 U. S., 627; 24 Int. Rev. Rec., 243.)

The United States circuit court, southern district of New York, made an order for the examination of Robert Boyd to discover whether he had property to satisfy judgment of the court. Boyd refused to testify and was imprisoned for contempt of court. The Supreme Court was petitioned for a writ of habeas corpus and certiorari. The circuit court was sustained in proceedings in the matter in accordance with the laws of

the State of New York, under section 916. (Ex parte Boyd, 28 Int. Rev. Rec., 232; 105 U. S., 647.)

Proceedings of marshal upon execution. (Sowles v. Witters, 46 Fed., 497; Cir. No. 331, 35 Int. Rev. Rec., 197.)

Discharge from prison only releases offender from further imprisonment. The debt still stands and can be collected. (Allen v. Clark, 126 Fed., 738.)

Where Congress has provided a specific penalty, courts of equity can not mitigate the hardship of the penalty or forfeiture or grant relief running counter to the statutory requirement. (United States v. Dieckhoff, 202 U. S., 303.)

The court has no authority to impose a fine only, where the law requires fine and imprisonment. (United States v. Braun & Fitts, 158 Fed., 456; Ex parte Karstendick, 93 U. S., 396.)

Executions in favor of United States to run in every State and Territory.

SEC. 986. All writs of execution upon judgments obtained for the use of the United States, in any court thereof, in one State, may run and be executed in any other State or in any Territory, but shall be issued from, and made returnable to, the court wherein the judgment was obtained.

14 Op. Atty. Gen., 384.

Judgment records and liens of judgments.

AN ACT To regulate the liens of judgments and decrees of the courts of the United States. (Act of August 1, 1888; 25 Stat., 357, as amended by act of March 2, 1895; 28 Stat., 814.)

SEC. 1. That judgments and decrees rendered in a circuit or district court of the United States within any State, shall be liens on property throughout such State in the same manner and to the same extent and under the same conditions only as if such judgments and decrees had been rendered by a court of general jurisdiction of such State: *Provided*, That whenever the laws of any State require a judgment or decree of a State court to be registered, recorded, docketed, indexed, or any other thing to be done, in a particular manner, or in a certain office or county, or parish in the State of Louisiana before a lien shall attach, this act shall be applicable therein whenever and only whenever the laws of such State shall authorize the judgments and decrees of the United States courts to be registered, recorded, docketed, indexed, or otherwise conformed to the rules and requirements relating to the judgments and decrees of the courts of the State.

SEC. 2. That the clerks of the several courts of the United States shall prepare and keep in their respective offices complete and convenient indices and cross-indices of the judgment records of said courts, and such indices and records shall at all times be open to the inspection and examination of the public.

SEC. 3. [*Repealed by Act of August 17, 1912 (37 Stat., 311.)*]

Lien of Judgments in the Federal courts. (Dartmouth Savings Bank v. Bates, 44 Fed., 546.)

United States not required to file lien under State laws. (United States v. Snyder, et al., 39 Int. Rev. Rec., 189; 149 U. S., 210.)

Judgment liens not restricted by State statutes. (Carroll v. Watkins, 1 Abb. 474, Fed. Cas. No. 2457; United States v. Humphreys, Fed. Cas. No. 15422, 3 Hughes, 201.)

Liens.

An act to amend an act entitled "An act to regulate the liens of judgments and decrees of the courts of the United States." (Approved Aug. 17, 1912; 37 Stat., 311.)

Be it enacted, etc., That section three of an act entitled "An act to regulate the liens of judgments and decrees of the courts of the United States," approved August first, eighteen hundred and eighty-eight, be, and the same is hereby, repealed.

This act shall take effect on and after January first, nineteen hundred and thirteen.

An act to repeal an act approved March 2, 1895, entitled "An act to amend section 3 of an act entitled 'An act to regulate the liens of judgments and decrees of the courts of the United States,' approved August 1, 1898." (Approved Aug. 23, 1916; 39 Stat., 531.)

Be it enacted, etc., That an act approved March second, eighteen hundred and ninety-five, entitled "An act to amend section three of an act entitled 'An act to regulate the liens of judgments and decrees of the courts of the United States,' approved August first, eighteen hundred and eighty-eight," be, and the same is hereby, repealed.

SEC. 2. That this act shall take effect on and after January first, nineteen hundred and seventeen.

The purpose of this measure was to rectify the mistake when the act of August 17, 1912, was passed in failing to repeal the act of 1895.

H. R. Rept. No. 205, 64th Cong., 1st sess.; S. Rept. No. 744.

Interest.

SEC. 963. Upon all bonds, on which suits are brought for the recovery of duties, interest shall be allowed, at the rate of six per centum a year, from the time when said bonds became due.

SEC. 966. Interest shall be allowed on all judgments in civil causes, recovered in a circuit or district court, and may be levied by the marshal under process of execution issued thereon, in all cases where, by the law of the State in which such court is held, interest may be levied under process of execution on judgments recovered in the courts of such State, and it shall be calculated from the date of the judgment, at such rate as is allowed by law on judgments recovered in the courts of such State.

An act of Congress giving interest on judgments does not include the Government unless expressly named or so intended by clear inference. (First Comptroller's Opinion in Stephani's Case, 26 Int. Rev. Rec., 313, and cases there cited; United States ex rel. v. John Sherman, Secretary of the Treasury, 98 U. S., 567; 25 Int. Rev. Rec., 198.)

Angarica v. Bayard (127 U. S., 251).

Schell v. Cochran (107 U. S., 625).

Interest on taxes. (See under secs. 3185, p. 117, and 3214, p. 134.)

Interest on claims against United States. (See under sec. 3220, p. 137.)

Interest in suits against officers upon adjustment of accounts. (See sec. 3624, p. 666.)

Interest on judgments in Court of Claims. (See sec. 1090.)

Interest only from commencement of the suit when there has been unreasonable delay in prosecuting the claims (*Sanborn v. United States*, 135 U. S., 271; 36 Int. Rev. Rec., 142; *Wightman v. United States*, 23 Ct. Cls., 148.)

Interest on judgments. State law governs. (T. Ds. 1016, 1017.)

Interest on judgments against United States under the Tucker Act 44 per cent from date of final judgment until appropriation is made. Section 10, act of March 3, 1887. (19 Comp. Dec., 152.)

Circuit Court of Appeals.

An act to establish circuit courts of appeals and to define and regulate in certain cases the jurisdiction of the courts of the United States, and for other purposes. (Act of Mar. 3, 1891; 26 Stat., 827.)

Circuit courts of appeal were created by the act of March 3, 1891, with substantially the same jurisdiction described in chapter 6 of the Judicial Code.

The jurisdiction of the circuit court of appeals is wholly appellate and is governed by the Judicial Code. (Act of Mar. 3, 1911, sec. 129, et seq.)

The judgments and decrees of the circuit courts of appeals are final in all cases under the revenue laws (sec. 128 of the Judicial Code, act of Mar. 3, 1911), and can only be carried to the Supreme Court by certificate or certiorari. (American Sugar Refining Co. v. United States, 211 U. S., 155.)

Writ of certiorari, effect of dismissing petition for. (Anderson v. Moyer, 193 Fed., 499.)

The Tucker Act of March 3, 1887 (24 Stat., 505), as amended by act of June 27, 1898, and act of July 1, 1898, provided for bringing suit against the United States on certain classes of claims and giving jurisdiction to the Court of Claims concurrent with that court to the district courts and circuit courts, respectively, and was incorporated in the Judicial Code and the act repealed, except sections 4-7, 10. (Sec. 297, Judicial Code, act of Mar. 3, 1911; 36 Stat., 1087.)

Suits under act of March 3, 1887, or paragraph 20, section 24, Judicial Code, to be tried without a jury.

In suits under act of March 3, 1887, against United States, in case of adverse judgment, question of appeal to be determined by the Attorney General. (Sec. 10.)

The Bowman Act of March 3, 1883 (22 Stat., 485), provided for transmission by the executive departments to the Court of Claims for finding of facts, etc., was incorporated in the Judicial Code (sec. 148) and the act repealed. (Sec. 297, Judicial Code, act of Mar. 3, 1911; 36 Stat., 1087.)

Circuit Court of Appeals has no jurisdiction of suit by one railroad company against another and a collector of internal revenue to determine liability for income tax on certain dividends as between the two companies, where the controversy depends wholly on construction of lease executed by plaintiff railroad to defendant, both being citizens of New York, whose courts may determine controversy, unless collector should remove case under section 33 of Judicial Code. (Rensselaer & Saratoga R. Co. v. Delaware & Hudson Co., 257 Fed., 555.)

Writs of error and appeals.

SEC. 11. [Act of March 3, 1891 (26 Stat. 829).] That no appeal or writ of error by which any order, judgment, or decree may be reviewed in the circuit court of appeals under the provisions of this act shall be taken or sued out except within six months after the entry of the order, judgment or decree sought to be reviewed: *Provided, however*, That in all cases in which a lesser time is now by law limited for appeals or writs of error such limits of time shall apply to appeals or writs of error in such cases taken to or sued out from the circuit courts of appeals.

No appeal or writ of error, by which any order, judgment, or decree may be reviewed in the circuit court of appeals, shall be taken or sued out except within six months after the entry of the order, judgment, or decree. (Siegelshiffer v. Penn. Mut. Life Ins. Co., 248 Fed., 226; Collins v. Huffman, 245 Fed., 20; Rutan v. Johnson, 130 Fed., 109.)

The statutory time for taking appeals is prescribed by act of Congress, and can not be extended by order of the court. (Old Nick Williams Co. v. United States, 215 U. S., 541.)

Writs of error and appeals to Supreme Court.

SEC. 6. [*Act of September 6, 1916 (39 Stat. 726).*] That no writ of error, appeal or writ of certiorari intended to bring up any cause for review by the Supreme Court shall be allowed or entertained unless duly applied for within three months after entry of the judgment or decree complained of: *Provided*, that writs of certiorari addressed to the Supreme Court of the Philippine Islands may be granted if application therefor be made within six months.

An internal revenue case may be taken to the Supreme Court when the constitutionality of an act of Congress is involved. (*Spreckels Sugar Refining Co. v. McClain*, 192 U. S., 397; T. D. 760.)

Appeals and writs of error may be taken from district courts direct to the Supreme Court in the cases mentioned in section 238, Judicial Code, amended by act of January 28, 1915. (38 Stat., 804.)

An act to provide for writs of error or appeals to the Supreme Court of the United States in all cases involving the question of the jurisdiction of the court below. (Act of February 25, 1889; 25 Stat., 693.) Section 238, "Judicial Code."

As to Alaska, the act of June 6, 1900, section 504 (31 Stat., 414) provides that appeals and writs of error may be taken from the district court directly to the Supreme Court in five classes of cases. Section 247, "Judicial Code."

In Porto Rico (act of April 12, 1900; 31 Stat., 84) there is established a district court of the United States with jurisdiction of circuit courts of the United States. It is provided that writs of error and appeal from the final decisions of the supreme court of Porto Rico and the district court of the United States shall be allowed and may be taken to the Supreme Court of the United States in the same manner and under the same regulations and in the same cases as from the supreme courts of the Territories; "and such writs of error and appeal shall be allowed in all cases where the Constitution of the United States or a treaty thereof or an act of Congress is brought in question and a right claimed thereunder is denied." Section 244, "Judicial Code."

Writs of error and appeals from Supreme Court of Porto Rico may be taken to circuit court of appeals and United States Supreme Court as now provided. Section 43, act of March 2, 1917. (39 Stat., 966.)

Virgin Islands. Appeals and writs of error to circuit court of appeals, third circuit, act of March 3, 1917. (39 Stat., 1132.)

Cases from Alaska and Hawaii are reviewable in the circuit court of appeals for the ninth circuit under sections 134 and 128 and 116, respectively, of the Judicial Code, and cases from the district court of Porto Rico are reviewable in the circuit court of appeals for the first circuit under the provisions of the act of January 25, 1915. (38 Stat., 803.)

Distinction between an appeal and writ of error. (*United States v. Diamond Match Co.*, 115 Fed., 288.)

Writs of error in criminal cases allowed by United States to Supreme Court on demurrers to indictment where decision was based on the invalidity or construction of the statute upon which the indictment was found. Act of March 2, 1917; 34 Stat., 1246. (*United States v. Stevenson*, 215 U. S., 190.)

A judgment of affirmance by a divided appellate court conclusively settles the rights of the parties in the particular litigation but does not establish a precedent in the court which renders it, and does not control inferior tribunals in other cases. (*Westhus v. Union Trust Co.*, 168 Fed., 617.)

Affirmances by the Supreme Court by reason of the court being equally divided settle no principle of law. (*Kinney v. Conant*, 166 Fed., 720.)

Certifying questions to the Supreme Court. Authority of circuit court of appeals to certify questions to the Supreme Court. (*Dickinson v. United States*, 174 Fed., 808; *Railway Co. v. Pope*, 74 Fed., 1; *Andrews v. National Foundry & Pipe Works*, 77 Fed., 774; *Pullman Pal. Car Co. v. Cent. Transp. Co.*, 83 Fed., 1.)

Questions certified must be distinct questions of law clearly stated. (*Graves v. Faurot*, 162 U. S., 435; *United States v. Union Pacific Ry. Co.*, 168 U. S., 505.)

The Supreme Court deals only with the facts certified. (*Stratton's Independence v. Howbert*, 231 U. S., 399; T. D. 1913.)

The circuit court of appeals at any time may certify to the Supreme Court of the United States any questions or propositions of law concerning which it desires the instruction of that court, or the Supreme Court may by certiorari require any case to be certified to the Supreme Court for review. (*United States v. Union Pac. Ry. Co.*, 168 U. S., 505; *United States v. Felsenheld*, 186 U. S., 126; T. D. 525.)

Primary object of act establishing circuit courts of appeals. (*American Construction Co. v. Jacksonville Railway Co.*, 148 U. S., 372.)

Act establishing the circuit court of appeals, with annotation of decisions. (90 Fed. Introduction.)

In none of the provisions of the act establishing the circuit courts of appeals, defining the appellate jurisdiction, either of the Supreme Court or of the circuit courts of appeals is there any indication of an intention to confer upon the United States the right to take up a criminal case of any grade after judgment below in favor of the defendant. (*United States v. Sanges*, 144 U. S. 323; *United States v. Dickinson*, 218 U. S., 92.)

SEC. 1008. No judgment, decree or order of a [circuit or] district court, in any civil action, at law or in equity, shall be reviewed in the Supreme Court, on writ of error or appeal, unless the writ of error is brought, or the appeal is taken within two years after the entry of such judgment, decree, or order:

Provided, That where a party entitled to prosecute a writ of error, or to take an appeal is an infant, insane person or imprisoned, such writ of error may be prosecuted, or such appeal may be taken, within two years after the judgment, decree, or order, exclusive of the term of such disability.

The words in brackets [circuit or] became inoperative on the abolition of circuit courts by the Judicial Code.

Section 11, act of March 3, 1891; "that no appeal or writ of error, by which any order, judgment, or decree may be reviewed in the circuit court of appeals, under the provisions of this act, shall be taken or sued out except within six months after the entry of the order, judgment, or decree sought to be reviewed." (*Rutan v. Johnson*, 130 Fed., 109.)

Appeals or writs of error to review a judgment of a circuit court of appeals must be sued out within 1 year. (Sec. 6, act of Mar. 3, 1891, 26 Stat., 826.)

The statutory time for taking appeals is prescribed by act of Congress, and can not be extended by order of the court. (*Old Nick Williams Co. v. United States*, 215 U. S., 541.)

An internal revenue case may be taken from the circuit court to the circuit court of appeals, and from there to the Supreme Court when the constitutionality of an act of Congress is involved. (*Spreckels Sugar Refining Co. v. McClain*, 192 U. S., 397; T. D. 760.)

Appeals from Court of Claims to Supreme Court.

SEC. 243. [*Act of March 3, 1911, "Judicial Code" (36 Stat., 1087).*] All appeals from the court of claims shall be taken within ninety days after the judgment is rendered, and shall be allowed under such regulations as the Supreme Court may direct.

Section 708, R. S., reenacted.

A judgment of the court of claims from which no appeal is taken is just as conclusive as a decision of the Supreme Court. (*United States v. O'Grady*, 22 Wall., 641.)

No bond required of United States, etc.

SEC. 1001. Whenever a writ of error, appeal or other process in law, admiralty, or equity, issues from or is brought up to the Supreme Court, or a circuit court, either by the United States or

by direction of any Department of the Government, no bond, obligation, or security shall be required from the United States, or from any party acting under the direction aforesaid, either to prosecute said suit, or to answer in damages or costs. In case of an adverse decision, such costs as by law are taxable against the United States, or against the party acting by direction as aforesaid, shall be paid out of the contingent fund of the Department under whose directions the proceedings were instituted.

The United States, when a plaintiff in a civil action, is entitled to the writ of attachment, and is relieved by section 1001 from giving the usual undertaking in such cases. (United States v. Ottmon, 23 Int. Rev. Rec., 294.)

Statute of limitations.

SEC. 1046. No person shall be prosecuted, tried, or punished for any crime arising under the revenue laws, * * * unless the indictment is found or the information is instituted within five years next after the committing of such crime.

SEC. 1047. No suit or prosecution for any penalty or forfeiture, pecuniary or otherwise, accruing under the laws of the United States, shall be maintained, except in cases where it is otherwise specially provided, unless the same is commenced within five years from the time when the penalty or forfeiture accrued: *Provided*, That the person of the offender, or the property liable for such penalty or forfeiture, shall, within the same period, be found within the United States; so that the proper process therefor may be instituted and served against such person or property.

An act to limit the time within which prosecutions may be instituted against persons charged with violating internal-revenue laws. (Act of July 5, 1884; 23 Stat., 122).

That no person shall be prosecuted, tried, or punished for any of the various offenses arising under the internal revenue laws of the United States unless the indictment is found or the information instituted within three years next after the commission of the offense, in all cases where the penalty prescribed may be imprisonment in the penitentiary, and within two years in all other cases:

Provided, That the time during which the person committing the offense is absent from the district wherein the same is committed shall not be taken as any part of the time limited by law for the commencement of such proceedings:

Provided further, That the provisions of this act shall not apply to offenses committed prior to its passage:

And provided further, That where a complaint shall be instituted before a commissioner of the United States within the period above limited, the time shall be extended until the discharge of the grand jury at its next session within the district:

And provided further, That this act shall not apply to offenses committed by officers of the United States.

Suits for taxes can be brought at any time. (See decisions quoted under sec. 3213, p. 132.)

Limitation of time within which suits must be brought against sureties on official bonds five years. (See act of Aug. 8, 1888, p. 618.)

States can not pass statutes of limitation binding on the Federal Government. (United States v. Thompson et al., 98 U. S., 486; 25 Int. Rev. Rec., 143; United States v. Flitts, 197 Fed., 1007.)

United States not bound by any statute of limitations unless Congress has clearly manifested its intention that they should be so bound.

(United States v. Nashville Railroad Co., 118 U. S., 125; United States v. Beebe, 127 U. S., 354.)

The limitation laws of the State in which the suit is brought do not furnish the rule for determining whether the action is brought in time. (Arnson v. Murphy, 109 U. S., 238.)

When the United States voluntarily appear in a court of justice, they at the same time submit to the law and place themselves upon an equality with other litigants; but this does not apply to such defenses as laches and the statute of limitations. (United States v. Ingate, 1891, 48 Fed., 251; The Purcell Envelope Co. v. United States, 47 Ct. Cls., 1.)

No officer of the Government authorized to waive statute, page 148, note.

Certificate of probable cause.

SEC. 970. When, in any prosecution commenced on account of the seizure of any vessel, goods, wares, or merchandise, made by any collector or other officer, under any act of Congress authorizing such seizure, judgment is rendered for the claimant, but it appears to the court that there was reasonable cause of seizure, the court shall cause a proper certificate thereof to be entered, and the claimant shall not, in such case, be entitled to costs, nor shall the person who made the seizure, nor the prosecutor, be liable to suit or judgment on account of such suit or prosecution: *Provided*, That the vessel, goods, wares, or merchandise be, after judgment, forthwith returned to such claimant or his agent.

The decision of the court below refusing certificate of probable cause not reviewable by circuit or Supreme Court. (United States v. Abattoir Place, 106 U. S., 160.)

Execution not to issue against officers of revenue in cases of probable cause, etc.

SEC. 989. When a recovery is had in any suit or proceeding against a collector or other officer of the revenue for any act done by him, or for the recovery of any money exacted by or paid to him and by him paid into the Treasury in the performance of his official duty, and the court certifies that there was probable cause for the act done by the collector or other officer, or that he acted under the directions of the Secretary of the Treasury, or other proper officer of the Government, no execution shall issue against such collector or other officer, but the amount so recovered shall, upon final judgment, be provided for and paid out of the proper appropriation from the Treasury.

Section 3220, page 137. Payment of judgments against collectors. (United States v. Frerichs, 124 U. S., 315; 34 Int. Rev. Rec., 39.)

Protection afforded to officers by certificate of probable cause. (Averill v. Smith, 17 Wall., 82; 17 Int. Rev. Rec., 171. Stacy v. Emery, 97 U. S. (7 Otto), 642; 24 Int. Rev. Rec., 378. Dunnagan v. United States, 17 Ct. Cls., 217; 28 Int. Rev. Rec. 144.)

Certificate of probable cause relieves the collector from the execution which would follow according to ordinary legal procedure. (Conant v. Kinney, 162 Fed., 581.)

Where such certificate is given the claim of the plaintiff is practically converted into a claim against the Government and no interest can be allowed in the judgment. (United States v. John Sherman, 25 Int. Rev. Rec., 198; 98 U. S., 527.)

Certificate of probable cause converts the claim against collector into claim against United States. (Klock Produce Co. v. Hartson, 212 Fed., 758.)

Remission of fines, penalties, and forfeitures.

SEC. 5292. [*Amended by Act of February 27, 1877 (19 Stat., 252).*] Whenever any person who shall have incurred any fine, penalty, or

forfeiture, or disability, or may be interested in any vessel or merchandise which has become subject to any seizure, forfeiture, or disability by authority of any provisions of law for imposing or collecting any duties or taxes * * * and for regulating the same * * * shall prefer his petition to the judge of the district in which such fine, penalty, or forfeiture, or disability has accrued, truly and particularly setting forth the circumstances of his case, and shall pray that the same may be mitigated or remitted, the judge shall inquire, in a summary manner, into the circumstances of the case; first causing reasonable notice to be given to the person claiming such fine, penalty, or forfeiture, and to the attorney of the United States for such district, that each may have an opportunity of showing cause against the mitigation or remission thereof; and shall cause the facts appearing upon such inquiry to be stated and annexed to the petition, and direct their transmission to the Secretary of the Treasury. The Secretary shall thereupon have power to mitigate or remit such fine, forfeiture, or penalty, or remove such disability, or any part thereof, if, in his opinion, the same was incurred without willful negligence, or any intention of fraud in the person incurring the same; and to direct the prosecution, if any has been instituted for the recovery thereof, to cease and be discontinued, upon such terms or conditions as he may deem reasonable and just.

SEC. 5293. [*Amended by Act of February 27, 1877 (19 Stat., 253).*] The Secretary of the Treasury is authorized to prescribe such rules and modes of proceeding to ascertain the facts upon which an application for remission of a fine, penalty, or forfeiture is founded, as he deems proper, and, upon ascertaining them, to remit the fine, penalty, or forfeiture, if in his opinion it was incurred without willful negligence or fraud, in either of the following cases:

First. If the fine, penalty, or forfeiture was imposed under authority of any revenue law, and the amount does not exceed one thousand dollars.

Second. Where the case occurred within either of the collection districts in the States of California or Oregon.

Third. If the fine, penalty, or forfeiture was imposed under authority of any provisions of law relating to the importation of merchandise from foreign contiguous territory * * *.

Fourth. * * *

Fifth. If the fine, penalty, or forfeiture was imposed by authority of any provisions of law for levying or collecting any duties or taxes, * * * and the case arose within the collection district of Alaska, * * *.

SEC. 5295. Any officer or other person entitled to or interested in a part or share of any fine, penalty, or forfeiture incurred under any law of the United States, may be examined as a witness in any of the proceedings for the recovery of such fine, penalty, or forfeiture by either of the parties thereto, and such examination shall not deprive such witness of his share or interest in such fine, penalty, or forfeiture.

The Secretary of the Treasury has authority to remit or mitigate fines, penalties, or forfeitures and to remove disabilities before or after judgment or decree, and until the money is actually paid into the Treasury. (*United States v. Morris*, 10 Wheat., 246.)

The Government is not liable for the torts of its officers. (*Hart v. United States*, 95 U. S., 318; *Langford v. United States*, 101 U. S., 346; *United States v. Cummings et al.*, 35 Int. Rev. Rec., 142, 130 U. S., 453.)

State of Maine v. United States (36 Ct. Cls., 532). See notes under section 3220, page 137. (*Thierman & Frost v. United States*, 51 Ct. Cls., 35.)

The order of the Commissioner to the collector of the district directing him to make a seizure is in law a reasonable cause and a protection to him against damages for such action. Sections 970 and 989, Revised Statutes, are both existing laws and not inconsistent or repugnant. (*Agnew v. Haymes*, 141 Fed., 631; T. D. 955.)

Property taken under revenue laws irrepleviable.

SEC. 934. All property taken or detained by any officer or other person, under authority of any revenue law of the United States, shall be irrepleviable, and shall be deemed to be in the custody of the law, and subject only to the orders and decrees of the courts of the United States having jurisdiction thereof.

Brice et al. v. Elliott. (22 Int. Rev. Rec., 206; Fed. Cas. No. 1854.)
Conflict of State and United States officers. (14 Op. Atty. Gen., 370; 19 Int. Rev. Rec., 73; *Buck v. Colbath*, 3 Wall., 334.)

Goods in the hands of the United States held for taxes can not be attached by State officers. (*Harris v. Dennie*, 3 Pet., 292; *McCullough v. Large*, 30 Int. Rev. Rec., 166.)

Where release or destruction of property is directed, action taken should be reported and complete description given of property released or destroyed. (T. D. 1696.)

Seizure of automobile as having been used in unlawful introduction of liquor vests Federal court with exclusive jurisdiction over machine for forfeiture proceedings, which is not affected by subsequent seizure under writ of replevin of State court. (*Ford v. United States*, 260 Fed., 657.)

Compromises of claims and of cases after judgment.

SEC. 3469. Upon a report by a district attorney, or any special attorney or agent having charge of any claim in favor of the United States, showing in detail the condition of such claim, and the terms upon which the same may be compromised, and recommending that it be compromised upon the terms so offered, and upon the recommendation of the Solicitor of the Treasury, the Secretary of the Treasury is authorized to compromise such claim accordingly. But the provisions of this section shall not apply to any claim arising under the postal laws.

Compromise of internal-revenue cases before judgment. (Sec. 3229, p. 149.)

Uncertainty whether the Government can obtain a verdict proper ground for compromise. (16 Op. Atty. Gen., 259.)

Forfeited recognizances. (18 Op. Atty. Gen., 277.)

Section 3469 does not extend to fines in criminal cases. (*United States v. George et al.*, 6 Blatch., 406; 12 Op. Atty. Gen., 543; 13 Id., 479.)

Compromise of solvent claims. (16 Op. Atty. Gen., 617; 25 Int. Rev. Rec., 29.)

Contra. (*MacVeagh*, 27 Int. Rev. Rec., 334; 17 Op. Atty. Gen., 213.)

A claim can not be compromised of whose collectibility in full there is no doubt (*Harmon*). (21 Op. Atty. Gen., 264.)

See also 23 Op. Atty. Gen., 18, 633; 29 Id., 217.

Government's claim to real property can not be compromised. (16 Op. Atty. Gen., 385.)

No power to compromise taxes. (*Dorshelmer v. United States*, 74 U. S. (7 Wall.), 166; 10 Int. Rev. Rec., 131; 2 Ct. Cls., 103.)

No authority to compromise cases under section 32, act of July 24, 1897.

The Attorney General may, however, compromise or settle such cases. (T. D., 21270.)

Offers of compromise. Department Circular No. 39, 1914.

Where action is brought for penalty, jury's verdict must fix amount of penalty not less than the minimum, after which only remedy, other than appeal, is application for compromise. (*United States v. Acorn Roofing Co.*, 204 Fed., 157.)

Remission.

The Secretary of the Treasury has authority to remit or mitigate fines, penalties, or forfeitures and to remove disabilities before or after judgment or decree, and until the money is actually paid into the Treasury. (*United States v. Morris*, 10 Wheat., 246; secs. 5292, 5293, R. S.)

The power to remit penalties is intrusted to the Secretary of the Treasury alone, and there is no appeal from his decision.

Pardons.

The President's power under the Constitution to grant pardons (Art. II, sec. 2) includes the power of remitting fines, penalties, and forfeitures. (*Ex parte Garland*, 4 Wall., 333.)

Effect of pardon. (*Weimer v. Reynolds*, 24 Int. Rev. Rec., 372; *Knote v. United States*, 95 U. S., 149; 24 Int. Rev. Rec., 4; *United States v. McKee*, 23 Id., 338; Fed. Cas. No. 15688.)

Pardon of officer bar to an action on official bond assigning same act as a breach. (*United States v. Cullerton*, 24 Int. Rev. Rec., 68; Fed. Cas. No. 14899.)

Pardon releases property seized for same offense. (*Osborn v. United States*, 91 U. S. (1 Otto), 474.)

Does not relieve from tax. (*United States v. Roelle et al.*, 24 Int. Rev. Rec., 332; Fed. Cas. No. 16186.)

A pardon is not complete until delivery. (*In re Moses De Puy*, 10 Int. Rev. Rec., 34; Fed. Cas. No. 3814.)

Act providing for parole of United States prisoners. Act of June 25, 1910 (36 Stat., 819). Act of January 23, 1913 (37 Stat., 650).

A court has no authority to permanently suspend sentence in a criminal case. (*Ex parte United States*, petitioner, 242 U. S., 27.)

After conviction or plea of guilty court has no power to indefinitely suspend imposition of sentence or indefinitely suspend execution thereof. (Department of Justice Cir. No. 517; instructions to United States' attorneys June 1, 1916.)

Employment of attorneys or counsel.

SEC. 189. No head of a department shall employ attorneys or counsel at the expense of the United States, but when in need of counsel or advice shall call upon the Department of Justice, the officers of which shall attend to the same.

Opinions of the Attorney General; the effect of his advice. (5 Op. Att'y. Gen., 97; 6 Id., 334; 7 Id., 699; 9 Id., 37.)

Questions of pure law actually arising in the administration of the Treasury Department, and requiring the personal consideration of the Secretary, may be referred to the Solicitor of the Treasury or to the Attorney General. If referred to the latter, however, his answer should be regarded by the department as law until withdrawn by him or overruled by the courts. (20 Op. Att'y. Gen., 655.)

A request for an opinion must not relate to a mere moot question. (21 Op. Att'y. Gen., 509.)

There should be a case actually arising. (24 Op. Att'y. Gen., 59; 27 Id., 49.)

The Attorney General does not possess the power to revise the decisions of an executive department. (3 Op. Att'y. Gen., 39.)

Will not interfere in a matter of administrative policy. (28 Op. Att'y. Gen., 127.)

Attorney General to provide counsel on investigation of claims.

SEC. 364. Whenever the head of a Department or Bureau gives the Attorney-General due notice that the interests of the United States

require the service of counsel upon the examination of witnesses touching any claim, or upon the legal investigation of any claim, pending in such Department or Bureau, the Attorney-General shall provide for such service.

AN ACT To authorize the commencement and conduct of legal proceedings under the direction of the Attorney General. (Approved, June 30, 1906; 34 Stat., 816.)

That the Attorney-General or any officer of the Department of Justice, or any attorney or counselor specially appointed by the Attorney-General under any provision of law, may, when thereunto specifically directed by the Attorney-General, conduct any kind of legal proceeding, civil or criminal, including grand jury proceedings and proceedings before committing magistrates, which district attorneys now are or hereafter may be by law authorized to conduct, whether or not he or they be residents of the district in which such proceeding is brought.

Duties of district attorneys to prosecute and to appear for collectors, etc.

SEC. 771. It shall be the duty of every district attorney to prosecute, in his district, all delinquents for crimes and offenses cognizable under the authority of the United States, and all civil actions in which the United States are concerned, and, unless otherwise instructed by the Secretary of the Treasury, to appear in behalf of the defendants in all suits or proceedings pending in his district against collectors, or other officers of the revenue, for any act done by them or for the recovery of any money exacted by or paid to such officers, and by them paid into the Treasury.

"Infamous" crimes can not be prosecuted by information. "No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces," etc. (Constitution, fifth amendment.)

Imprisonment at hard labor for a term of years is an infamous punishment. (*Wilson ex parte*, 114 U. S., 417; 31 Int. Rev. Rec., 224.)

A crime punishable by imprisonment in a state's prison or penitentiary with or without hard labor is an "infamous" crime. (*Mackin v. United States*, 117 U. S., 348.)

It is the duty of a district attorney to prosecute suits to enforce against certain property the statutory lien for internal-revenue taxes. (*Bliss v. United States*, 37 Fed., 191.)

Duty of Government to defend its officers when sued for doing what the law requires. (9 Op. Atty. Gen., 52.)

The act of March 3, 1887 (24 Stat., 505), Sec. 6, providing for the bringing of suits against the Government in the United States district and circuit courts, makes it the duty of the district attorney to appear and defend the interests of the Government in such suits and within sixty days after the service of petition upon him to file a plea, answer, or demurrer on the part of the Government, and notice of any set-off or counter claim.

Suits by or against officers not to abate on their death, resignation, or expiration of their term of office. (Act of February 8, 1890, 30 Stat., 822.)

By the acts of June 27, 1898, and July 1, 1898, the right of Government officers to bring suits in the circuit and district courts for their fees or salaries was repealed, thus removing what had been found to be a serious difficulty in the workings of the act of March 3, 1887.

Attorneys defending employees of the Government. (22 Comp. Dec., 264.)

District attorneys to report to Commissioner of Internal Revenue.

SEC. 774. When any suit or proceeding arising under the internal-revenue laws, to which the United States are party, or any suit or proceeding against a collector or other officer of the internal revenue, wherein a district attorney appears, is commenced, the attorney for the district in which it is brought shall immediately report to the Commissioner of Internal Revenue the full particulars relating to the same; and he shall, immediately after the end of each term of the court in which such suit or proceeding is pending, forward to the said Commissioner a full and particular statement of its condition.

Duty of Commissioner to make regulations for observance of district attorneys and marshals. (Sec. 3215, p. 134.)
Regulations No. 12, revised.

Duty of district attorneys as to prosecution and reports.

SEC. 838. It shall be the duty of every district attorney to whom any collector of customs, or of internal revenue, shall report, according to law, any case in which any fine, penalty, or forfeiture has been incurred in the district of such attorney for the violation of any law of the United States relating to the revenue, to cause the proper proceedings to be commenced and prosecuted without delay, for the fines, penalties, and forfeitures in such case provided, unless, upon inquiry and examination, he shall decide that such proceedings cannot probably be sustained, or that the ends of public justice do not require that such proceedings should be instituted; in which case he shall report the facts in customs cases to the Secretary of the Treasury, and in internal revenue cases to the Commissioner of Internal Revenue for their direction.

* * * * *

That portion of this section referring to compensation of district attorneys is omitted, as made inoperative by the act of May 28, 1896. (29 Stat., 178.)

Duty of collectors to report violations of law to district attorneys. (Sec. 3164, p. 94.)

Reports of marshals.—Marshals are required to report proceedings under process issued to them in internal-revenue cases. (Regulations No. 12, revised, p. 17.)

Instructions to report status of judgment debtors. (T. D. 703.)

Warrants of arrest.

SEC. 19. [*Act of May 28, 1896 (29 Stat., 184), reenacted by act March 2, 1901 (31 Stat., 956).*] * * * Warrants of arrest for violations of internal-revenue laws may be issued by United States commissioners upon the sworn complaint of a United States district attorney, assistant United States district attorney, collector or deputy collector of internal revenue, or revenue agent or private citizen, but no such warrant of arrest shall be issued upon the sworn complaint of a private citizen unless first approved in writing by a United States district attorney. * * *

Under the act of May 28, 1896, the issue of a warrant upon a complaint made by a field deputy marshal, which was approved by the district attorney by telephone, even though subsequently reduced to writing, is not authorized. (VI Comp. Dec., 113.)

Fees of United States marshals—Illegal warrants. (IV Comp. Dec., 338, 449, 672.)

- Deputy collectors swearing to complaints. (T. D. 510.)
 Insufficiency of warrant. (United States v. Sapinkow, 90 Fed., 654.)
 Warrant must particularly name or describe the person. (West v. Cabell, 153 U. S., 85, 86.)
 Serving John Doe warrants not valid writs. (16 Comp. Dec., 891.)
 Arrest of persons while operating illicit distillery. (Sec. 9, act Mar. 1, 1879, p. 231; IV Comp. Dec., 338.)
 Arrests without warrant. (14 Int. Rev. Rec., 27; 24 Id., 349, 378; Carrico v. Willmore, 51 Fed., 186.)
 A marshal has the right to arrest upon visible evidence of crime. (United States v. Fullehart, 106 Fed., 911.)
 Official misconduct of United States Commissioner; practice of encouraging prosecutions set on foot by "professional witnesses." (In re Gilbert, United States Commissioner, 31 Fed., 277.)
 A corporation can not be arrested. (John Gund Brewing Co. v. United States, 204 Fed., 20.)

[*Act of August 18, 1894* (28 Stat., 416).] * * * And hereafter no part of any money appropriated to pay any fees to the United States commissioners, marshals, or clerks shall be used for any warrant issued or arrest made, or other fees in prosecutions under the internal revenue laws, unless said fees have been taxed against and collected from the defendant, or unless the prosecution has been commenced upon a sworn complaint setting forth the facts constituting the offense and alleging them to be within the personal knowledge of the affiant, or upon a sworn complaint by a United States district attorney, collector, or deputy collector of internal revenue or revenue agent, setting forth the facts upon information and belief, and approved either before or after such arrest by a circuit or district judge or the attorney of the United States in the district where the offense is alleged to have been committed or the indictment is found:

Provided, That it shall be the duty of the marshal, his deputy, or other officer who may arrest a person charged with any crime or offense, to take the defendant before the nearest circuit court commissioner or the nearest judicial officer having jurisdiction under existing laws for a hearing, commitment or taking bail for trial, and the officer or magistrate issuing the warrant shall attach thereto a certified copy of the complaint; and upon the arrest of the accused, the return of the warrant, with a copy of the complaint attached, shall confer jurisdiction upon such officer as fully as if the complaint had originally been made before him, and no mileage shall be allowed any officer violating the provisions hereof.

Construction of statute. (United States v. Puleston, 106 Fed., 294.)

Clerks of courts to report to Commissioner as to all moneys paid into court in internal-revenue cases, etc.

SEC. 797. [*Amended by sec. 2, act of March 1, 1879* (20 Stat., 327).] Every clerk of a circuit or district court shall, within thirty days after the adjournment of each term thereof, forward to the Solicitor of the Treasury a list of all judgments and decrees, to which the United States are parties, which have been entered in said court, respectively, during such term, showing the amount adjudged or decreed in each case, for or against the United States, and the term to which execution thereon will be returnable. He shall also, at the close of each quarter, or within ten days thereafter, report to the Commissioner of Internal Revenue all moneys paid into court on

account of cases arising under the internal-revenue laws, as well as all moneys paid on suits on bonds of collectors of internal revenue. The report shall show the name and nature of each case, the date of payment into court, the amount paid on account of debt, tax, or penalty, and also the amount on account of costs. If such money, or any portion thereof, has been paid by the clerk to any internal-revenue officer or other person, the report shall show to whom each of such payments was made; and if to an internal-revenue officer, it shall be accompanied by the receipt of such officer.

Section 5, act of February 22, 1875 (18 Stat., 334), provides that if any clerk of any district or circuit court of the United States shall willfully refuse or neglect to make any report or other document required by law to be by him made, or shall willfully refuse or neglect to forward any such report or document to the department, officer, or person to whom by law the same should be forwarded, the clerk so offending shall be removed from office and shall not be eligible to any appointment as clerk or deputy clerk for the period of two years next after such removal.

Section 6 of the same act also provides additional punishment, by a fine not exceeding \$1,000 or by imprisonment not exceeding one year, in the discretion of the court.

Clerk of court failing to deposit moneys, etc. (Sec. 99 of the criminal code, act March 4, 1909, 35 Stat., 1088.)

Clerks of court to keep indices of judgment records. See act August 1, 1883, p. 643.)

Clerks are instructed in all cases in the several courts arising under the internal-revenue laws, where moneys are recovered and paid in for the United States, to pay over such moneys, including costs, to the collectors of internal revenue under the provisions of section 3216, R. S.

Collectors will furnish the clerks with receipts in duplicate on Form No. 540, the original to be forwarded to the Commissioner with the clerk's quarterly report (Form 158), the duplicate to be retained by the clerk.

(See circular to clerks of United States courts issued by the Attorney General April 20, 1898, T. D. No. 19306, 1898; also, Instructions to attorneys, clerks, etc., by the Department of Justice, T. D. 754; Regulations, No. 12, rev.)

Moneys recovered on forfeited recognizances or bail bonds are not classed as internal-revenue moneys and should be paid into the Treasury by the clerk of court and not turned over by him to the collector of internal revenue. (See Digest of Opinions of Solicitor of the Treasury, 1885-1903, p. 240.)

SEC. 6. [*Act of May 28, 1896 (29 Stat., 178).*] That, on and after the first day of July, eighteen hundred and ninety-six, all fees and emoluments authorized by law to be paid to United States district attorneys and United States marshals shall be charged as heretofore, and shall be collected, as far as possible, and paid to the Clerk of the court having jurisdiction, and by him covered into the Treasury of the United States.

CHAPTER 2.

DUTIES OF OFFICERS CHARGED WITH RECEIVING OR DISBURSING PUBLIC MONEYS—EMBEZZLEMENT AND OFFICIAL MISCONDUCT—PROCEEDINGS AGAINST DELINQUENT OFFICERS.

Moneys to be deposited without deduction.

Duty of disbursing officers.

Persons having moneys of United States must pay the same to Treasurer, etc.

Accounts to be rendered.

Distinct accounts required according to appropriation.

Suits to recover money from officers regulated.

Distress warrant.

Failure of disbursing officer to account; duty thereupon of Auditor and Solicitor of Treasury.
 Duties of officers as custodians of public moneys.
 Embezzlement; penalty for requiring receipt for larger sum than that actually paid.
 Embezzlement; penalty for disbursing officer unlawfully depositing, converting, loaning, or transferring public money.
 Embezzlement; penalty for custodians of public money failing to safely keep, etc.
 Embezzlement; penalty for failure to render accounts.
 Embezzlement; penalty for failure to deposit as required.
 Record evidence of embezzlement.
 Refusal to pay any draft, etc., prima facie evidence of embezzlement.

Evidence of conversion.
 Unlawfully receiving public money.
 Embezzlement by internal-revenue officers and assistants where offense is not otherwise punishable.
 Penalty for clerks and officers of court failing to deposit moneys.
 Penalty for receiving moneys belonging to the registry of the court.
 Penalty for failure to make reports.
 Disbursing officer forbidden to trade in public funds.
 Collecting officers forbidden to trade in public property.
 Transcripts from books, etc., of the Treasury to be evidence in suits against delinquents.
 Delinquents for public money; judgment at return term, unless, etc.

Moneys to be deposited without deduction.

SEC. 3617. The gross amount of all moneys received from whatever source for the use of the United States, except as otherwise provided in the next section, shall be paid by the officer or agent receiving the same into the Treasury, at as early a day as practicable, without any abatement or deduction on account of salary, fees, costs, charges, expenses, or claim of any description whatever. But nothing herein shall affect any provision relating to the revenues of the Post-Office Department.

The next section relates to the proceeds of sales of material. III Comp. Dec. 149.

It seems that no express authority has been given the executive departments to sell old or disused material and supplies. Such practice appears to have grown up, however, for reasons of economy, and is apparently recognized in the provisions of sections 197 and 3618 of the Revised Statutes, which provide for the accounting by Government officers for moneys received from the sale of old material and supplies. (28 Op. Atty. Gen., 203.)

Section 3619 provides that "Every officer or agent who neglects or refuses to comply with the provisions of section 3617 shall be subject to be removed from office, and to forfeit to the United States any share or part of the moneys withheld, to which he might otherwise be entitled."

(15 Op. Atty. Gen., 387. 24 Int. Rev. Rec., 190; 26 Id., 230)
 (See secs. 3210, 3216, R. S., pp. 129, 135; act of May 27, 1908 (35 Stat., 325) p. 130; XVI Comp. Dec., 309.)

Information relating to the accounting system of the United States Treasury Department. A compendium of the principal United States statutes and comptroller's decisions relating to the accounting officers of the Treasury, etc., compiled by Robert S. Person, auditor for Interior Department, 1905.

Collector can not deposit short to balance previous overdeposit. (T. D. 2225.)

SEC. 3620. [*Amended by the act of February 27, 1877 (19 Stat., 240).*] It shall be the duty of every disbursing officer having any public money intrusted to him for disbursement, to deposit the same with the Treasurer or some one of the assistant treasurers of the United States, and to draw for the same only as it may be required

for payments to be made by him in pursuance of law and draw for the same only in favor of the persons to whom payment is made; and all transfers from the Treasurer of the United States to a disbursing officer shall be by draft or warrant on the Treasury or an assistant treasurer of the United States. In places, however, where there is no treasurer or assistant treasurer, the Secretary of the Treasury may, when he deems it essential to the public interest, specially authorize in writing the deposit of such public money in any other public depository, or, in writing, authorize the same to be kept in any other manner, and under such rules and regulations as he may deem most safe and effectual to facilitate the payments to public creditors.

See section 87 of the Criminal Code, act of March 4, 1909 (35 Stat., 1105), page 668, providing penalty for unlawfully depositing.

Checks of disbursing officers. (15 Op. Atty. Gen., 288.)

Depositories to be designated by Secretary, section 3211, page 130.

Principles governing the forms of expenditure, documents, and the character of evidence to be prepared and kept pertaining to transactions involving the expenditure of money. (Dept. Cir. No. 35, May 20, 1911.)

Regulation for the deposit of public moneys. (Dept. Cir. No. 105, December 27, 1917.)

Public moneys and official checks of United States disbursing officers. (Dept. Cir. No. 102, December 7, 1906; Dept. Cir. No. 125, August 14, 1897; Reg. No. 2, revised, p. 93; Dept. Cir. No. 17, March 19, 1908; payment of Government warrants and checks, Dept. Cir. No. 5, April 6, 1916.)

Deposit of unexpended balances of annual appropriations, etc. (Dept. Cir. No. 123, December 15, 1903.)

Every person having moneys of the United States must pay to Treasurer, etc., and take receipt.

SEC. 3621. [*Amended by sec. 5, act May 28, 1896 (29 Stat., 140).*] Every person who shall have moneys of the United States in his hands or possession, and disbursing officers having moneys in their possession not required for current expenditure, shall pay the same to the Treasurer and Assistant Treasurer, or some public depository of the United States, without delay, and in all cases within thirty days of their receipt.

And the Treasurer, the Assistant Treasurer, or the public depository shall issue duplicate receipts for the moneys so paid, transmitting forthwith the original to the Secretary of the Treasury, and delivering the duplicate to the depositor.

The Secretary of the Treasury prescribed regulations as to "proper disposition of certificates of deposit." (Dept. Cir. No. 12, April 17, 1913; Dept. Cir. No. 12, January 2, 1914.)

Deposit of public moneys. (Dept. Cir. No. 47, April 5, 1905.)

See section 91, Criminal Code, act March 4, 1909 (35 Stat., 1105), page 669, providing penalty for failure to deposit as required.

SEC. 4. [*Act of August 30, 1890 (26 Stat., 371).*] That hereafter all disbursing officers of the United States shall render their accounts quarterly * * * but the Secretary of the Treasury may direct any or all such accounts to be rendered more frequently when in his judgment the public interest may require.

Accounts to be rendered.

SEC. 3622. [*Amended by sec. 12, act of July 31, 1894 (28 Stat., 209).*] Every officer or agent of the United States who receives public money which he is not authorized to retain as salary, pay, or emolu-

ment, shall render his accounts monthly. Such accounts, with the vouchers necessary to the correct and prompt settlement thereof, shall be sent by mail, or otherwise, to the Bureau to which they pertain, within ten days after the expiration of each successive month, and, after examination there, shall be passed to the proper accounting officer of the Treasury for settlement. Disbursing officers of the Navy shall, however, render their accounts and vouchers direct to the proper accounting officer of the Treasury. In case of the non-receipt at the Treasury, or proper Bureau, of any accounts within a reasonable and proper time thereafter, the officer whose accounts are in default shall be required to furnish satisfactory evidence of having complied with the provisions of this section. * * * Nothing herein contained shall, however, be construed to restrain the heads of any of the Departments from requiring such other returns or reports from the officer or agent, subject to the control of such heads of Departments, as the public interest may require.

Collectors of internal revenue shall render their revenue accounts quarterly. (Act May 27, 1908, 35 Stat., 325, p. 130.)

Collectors, acting as disbursing agents, report transactions of funds advanced to them from the several appropriations on Form 44. This report is rendered monthly, and under section 12 of the act of July 31, 1894, amended, should be mailed or otherwise sent to the Commissioner of Internal Revenue within ten days after the end of the month to which it relates. (Reg. No. 2, revised, p. 106.)

See section 90, Criminal Code, act March 4, 1909 (35 Stat., 1105), page 669, providing penalty for failure to render accounts.

The provision giving the Secretary of the Treasury power in particular cases to extend the time prescribed for the rendition of accounts does not authorize him to institute a new system of rendering accounts. (16 Op. Atty. Gen., 222.)

Rendition of accounts. (19 Op. Atty. Gen., 557; 36 Int. Rev. Rec., 173.)

The Dockery commission was organized by the act of March 3, 1893.

The "Dockery bill" was included in the legislative, executive, and judicial appropriation act for the fiscal year 1895. (Act of July 31, 1894, 28 Stat., 162.) The act went into effect October 1, 1894, and provided that hereafter the First Comptroller shall be known as the Comptroller of the Treasury.

It abolished the office of Commissioner of Customs, Second Comptroller, and other offices, and modified the method of settlement of accounts.

The act prescribes the powers and duties of the accounting officers of the Treasury Department (28 Stat., 205-211). (See Digest of the Decisions of the Comptroller of the Treasury, 1902.)

Section 22 contains the following paragraph:

"It shall also be the duty of the heads of the several Executive Departments and of the proper officers of other Government establishments, not within the jurisdiction of any Executive Department, to make appropriate rules and regulations to secure a proper administrative examination of all accounts sent to them, as required by section 12 of this act, before their transmission to the auditors, and for the execution of other requirements of this act in so far as the same relate to the several departments or establishments."

Regulations governing the revision by Comptroller of the Treasury of accounts settled by the auditors. (Dept. Cir. 87, April 25, 1895; Treasury Bookkeeping, Dept. Cir. 38, June 17, 1907; Dept. Cir. 56, July 14, 1908.)

Secretary can not legally by departmental order change a practice or course of office prescribed by statute for settlement of accounts. (9 Op. Atty. Gen., 177.)

Power of auditor and comptroller stated. (Waters v. United States, 21 Ct. Clms., 37, 38.)

Reopening accounts. (4 Comp. Dec., 303, December 9, 1897.)

Transmittal of accounts.

SEC. 12. [*Act of July 31, 1894 (28 Stat., 162), as amended by sec. 4, act of May 28, 1896 (29 Stat., 140).*] All monthly accounts shall be mailed or otherwise sent to the proper officer at Washington within ten days after the end of the month to which they relate, and quarterly and other accounts within twenty days after the period to which they relate, and shall be transmitted to and received by the Auditors within twenty days of their actual receipt at the proper office in Washington in the case of monthly, and sixty days in the case of quarterly and other accounts. Should there be any delinquency in this regard at the time of the receipt by the Auditor of a requisition for an advance of money, he shall disapprove the requisition, which he may also do for other reasons arising out of the condition of the officer's accounts for whom the advance is requested; but the Secretary of the Treasury may overrule the Auditor's decision as to the sufficiency of these latter reasons:

Provided, That the Secretary of the Treasury shall prescribe suitable rules and regulations, and may make orders in particular cases, relaxing the requirements of mailing or otherwise sending accounts, as aforesaid, within ten or twenty days, or waiving delinquency, in such cases only in which there is, or is likely to be, a manifest physical difficulty in complying with the same, it being the purpose of this provision to require the prompt rendition of accounts without regard to the mere convenience of the officers, and to forbid the advance of money to those delinquent in rendering them:

Provided further, That should there be a delay by the administrative Departments beyond the aforesaid twenty or sixty days in transmitting accounts, an order of the President, or in the event of the absence from the seat of Government, or sickness of the President, an order of the Secretary of the Treasury, in the particular case shall be necessary to authorize the advance of money requested:

And provided further, That this section shall not apply to accounts of the postal revenue and expenditures therefrom, which shall be rendered as now required by law.

The Secretary of the Treasury shall, on the first Monday of January in each year, make report to Congress of such officers and administrative departments and offices of the Government as were, respectively, at any time during the last preceding fiscal year delinquent in rendering or transmitting accounts to the proper offices in Washington and the cause therefor, and in each case indicating whether the delinquency was waived, together with such officers, including postmasters and officers of the Post-Office Department, as were found upon final settlement of their accounts to have been indebted to the Government, with the amount of such indebtedness in each case, and who, at the date of making report, had failed to pay the same into the Treasury of the United States. * * *

Instructions to carry into effect the recommendations of the Committee on Department Methods. (Dept. Cir. 52, July 29, 1907.)

Circular relative to transmittal of accounts, Department No. 114, August 16, 1894.

Transmittal of accounts and advances of funds. (Dept. Cir. 25, T. D. 18925, 1898.)

Instructions relative to preparation of report on Form 51 B. (T. D. 1829).

Distinct accounts required according to appropriation.

SEC. 3623. All officers, agents, or other persons, receiving public moneys, shall render distinct accounts of the application thereof, according to the appropriation under which the same may have been advanced to them.

Suits to recover money from officers regulated.

SEC. 3624. Whenever any person accountable for public money, neglects or refuses to pay into the Treasury the sum or balance reported to be due to the United States, upon the adjustment of his account, the (First) Comptroller of the Treasury shall institute suit for the recovery of the same, adding to the sum stated to be due on such account, the commissions of the delinquent, which shall be forfeited in every instance where suit is commenced and judgment obtained thereon, and an interest of six per centum per annum, from the time of receiving the money until it shall be repaid into the Treasury.

Duties of First Comptroller conferred on Comptroller of Treasury (Dockery Act), act of July 31, 1894 (28 Stat., 162).

Distress warrant.

SEC. 3625. [*Amended by sec. 4, act July 31, 1894 (28 Stat., 162).*] Whenever any collector of the revenue, receiver of public money, or other officer who has received the public money before it is paid into the Treasury of the United States, fails to render his account, or pay over the same in the manner or within the time required by law, it shall be the duty of the proper Auditor to cause to be stated the account of such officer, exhibiting truly the amount due to the United States, and to certify the same to the Solicitor of the Treasury, who shall issue a warrant of distress against the delinquent officer and his sureties, directed to the marshal of the district in which such officer and his sureties reside. Where the officer and his sureties reside in different districts, or where they, or either of them, reside in a district other than that in which the estate of either may be, which it is intended to take and sell, then such warrant shall be directed to the marshals of such districts, respectively.

Section 3217, page 135.

Proceedings by distress warrant have not been resorted to for many years. The remedy by suit on bond is deemed preferable.

Failure of disbursing officer to account—Duty thereupon of Auditor and Solicitor of Treasury.

SEC. 3633. [*Amended by sec. 4, act July 31, 1894 (28 Stat., 162).*] Whenever any officer employed in the civil, military, or naval service of the Government, to disburse the public money appropriated for those branches of the public service, respectively, fails to render his accounts, or to pay over, in the manner and in the time required by law, or by the regulations of the Department to which he is accountable, any sum of money remaining in his hands, it shall be the duty of the proper Auditor, as the case may be, who shall be charged with the revision of the accounts of such officer, to cause to be stated and certified the account of such delinquent officer to the Solicitor of the

Treasury, who is hereby authorized and required immediately to proceed against such delinquent officer, in the manner directed in the six preceding sections.

The six preceding sections referred to, viz, sections 3627, 3628, 3629, 3630, 3631, 3632, relate to proceedings by warrant of distress, not usually resorted to. See section 90, act of March 4, 1909 (35 Stat., 1105), page 669.

Rights of United States reserved.

SEC. 3638. Nothing contained in the provisions of this Title relating to distress-warrants shall be construed to take away or impair any right or remedy which the United States might have, by law, for the recovery of taxes, debts, or demands.

Duties of officers as custodians of public moneys to safely keep, etc.

SEC. 3639. The Treasurer of the United States, all assistant treasurers, and those performing the duties of assistant treasurer, all collectors of the customs, all surveyors of the customs, acting also as collectors, all receivers of public moneys at the several land-offices, all postmasters, and all public officers of whatsoever character, are required to keep safely, without loaning, using, depositing in banks, or exchanging for other funds than as specially allowed by law, all the public money collected by them, or otherwise at any time placed in their possession and custody, till the same is ordered, by the proper Department or officer of the Government, to be transferred or paid out; and when such orders for transfer or payment are received, faithfully and promptly to make the same as directed, and to do and perform all other duties as fiscal agents of the Government which may be imposed by any law, or by any regulation of the Treasury Department made in conformity to law.

The President is authorized, if in his opinion the interest of the United States requires the same, to regulate and increase the sum for which bonds are, or may be, required by law, of all district attorneys, collectors of customs, naval officers, and surveyors of customs, navy agents, receivers and registers of public lands, paymasters in the Army, commissary-general, and by all other officers employed in the disbursement of the public moneys, under the direction of the War or Navy Departments.

See sections 86, 87, 88, 89, 90, 91, and 92 of the Criminal Code, act March 4, 1909 (35 Stat., 1105), pp. 667-669.

Entry to be kept of sums received and of transfer and payment.

SEC. 3643. All persons charged by law with the safe-keeping, transfer, and disbursement of the public moneys, other than those connected with the Post-Office Department, are required to keep an accurate entry of each sum received and of each payment or transfer.

Embezzlement: Penalty for requiring receipt for larger sum than that actually paid.

[§5483.] SEC. 86. [*Act of March 4, 1909, Criminal Code (35 Stat., 1105).*] Whoever, being an officer, clerk, agent, employee, or other person charged with the payment of any appropriation made by Congress, shall pay to any clerk or other employee of the United States a sum less than that provided by law, and require such em-

ployee to receipt or give a voucher for an amount greater than that actually paid to and received by him, is guilty of embezzlement, and shall be fined in double the amount so withheld from any employee of the Government and imprisoned not more than two years.

Embezzlement: Penalty for disbursing officer unlawfully depositing, converting, loaning, or transferring public money.

[§5488.] SEC. 87. [*Act of March 4, 1909, Criminal Code (35 Stat., 1105).*] Whoever, being a disbursing officer of the United States, or a person acting as such, shall in any manner convert to his own use, or loan with or without interest, or deposit in any place or in any manner, except as authorized by law, any public money intrusted to him; or shall, for any purpose not prescribed by law, withdraw from the Treasurer or any assistant treasurer, or any authorized depositary, or transfer, or apply, any portion of the public money intrusted to him, shall be deemed guilty of an embezzlement of the money so converted, loaned, deposited, withdrawn, transferred, or applied, and shall be fined not more than the amount embezzled, or imprisoned not more than ten years, or both.

See section 3620, page 662, and section 96 of the Criminal Code, act of March 4, 1909 (35 Stat., 1106), page 670.

Failure of depositaries to safely keep public deposits.

[§5489.] SEC. 88. [*Act of March 4, 1909, Criminal Code (35 Stat., 1105).*] If the Treasurer of the United States or any assistant treasurer, or any public depositary, fails safely to keep all moneys deposited by any disbursing officer or disbursing agent, as well as all moneys deposited by any receiver, collector, or other person having money of the United States, he shall be deemed guilty of embezzlement of the moneys not so safely kept, and shall be fined in a sum equal to the amount of money so embezzled and imprisoned not more than ten years.

Embezzlement: Penalty for custodians of public money failing to safely keep, etc.

[§5490.] SEC. 89. [*Act of March 4, 1909, Criminal Code (35 Stat., 1105).*] Every officer or other person charged by any Act of Congress with the safe-keeping of the public moneys, who shall loan, use, or convert to his own use, or shall deposit in any bank or exchange for other funds, except as specially allowed by law, any portion of the public moneys intrusted to him for safe-keeping, shall be guilty of embezzlement of the money so loaned, used, converted, deposited, or exchanged, and shall be fined in a sum equal to the amount of money so embezzled and imprisoned not more than ten years.

Collector or receiver of public money excused from paying if prevented by act of God or the public enemy. (*United States v. Thomas*, 15 Wall., 337.)

Felonious taking or carrying away of public moneys in the custody of a receiver without fault or negligence on his part, not any defense on the bond. (*United States v. Prescott*, 3 How., 578; also *United States v. Dashiell*, 4 Wall., 182; *Boyden v. United States*, 13 Wall., 17.)

Fraudulent intent not a necessary ingredient. (29 Op. Atty. Gen., 563.)

Embezzlement: Penalty for failure of officer or agent to render accounts, etc.

[§5491.] SEC. 90. [*Act of March 4, 1909, Criminal Code (35 Stat., 1105).*] Every officer or agent of the United States who, having received public money which he is not authorized to retain as salary, pay, or emolument, fails to render his accounts for the same as provided by law shall be deemed guilty of embezzlement, and shall be fined in a sum equal to the amount of the money embezzled and imprisoned not more than ten years.

Failure to make reports.—See section 101 of the Criminal Code, act of March 4, 1909 (35 Stat., 1107), page 671.

Penalty for falsification of accounts and making false reports, by persons in the employ of the United States. Fine of not more than \$5,000, or imprisonment not more than ten years, or both. Act of March 4, 1911 (36 Stat., 1355).

Embezzlement: Penalty for failure to deposit as required.

[§5492.] SEC. 91. [*Act of March 4, 1909, Criminal Code (35 Stat., 1105).*] Whoever, having money of the United States in his possession or under his control, shall fail to deposit it with the Treasurer, or some assistant treasurer, or some public depository of the United States, when required so to do by the Secretary of the Treasury, or the head of any other proper department, or by the accounting officers of the Treasury, shall be deemed guilty of embezzlement thereof, and shall be fined in a sum equal to the amount of money embezzled and imprisoned not more than ten years.

Dimmick v. United States (121 Fed., 638, affirming 112 Fed., 352.)

Record evidence of embezzlement.

[§5494.] SEC. 93. [*Act of March 4, 1909, Criminal Code (35 Stat., 1105).*] Upon the trial of any indictment against any person for embezzling public money under any provision of the six preceding sections, it shall be sufficient evidence, prima facie, for the purpose of showing a balance against such person, to produce a transcript from the books and proceedings of the Treasury, as required in civil cases, under the provisions for the settlement of accounts between the United States and receivers of public money.

Refusal to pay any draft, etc., prima facie evidence of embezzlement.

[§5495.] SEC. 94. [*Act of March 4, 1909, Criminal Code (35 Stat., 1106).*] The refusal of any person, whether in or out of office, charged with the safe-keeping, transfer, or disbursement of the public money to pay any draft, order, or warrant, drawn upon him by the proper accounting officer of the Treasury, for any public money in his hands belonging to the United States, no matter in what capacity the same may have been received, or may be held, or to transfer or disburse any such money, promptly, upon the legal requirement of any authorized officer, shall be deemed, upon the trial of any indictment against such person for embezzlement, prima facie evidence of such embezzlement.

Evidence of conversion.

[§5496.] SEC. 95. [*Act of March 4, 1909, Criminal Code (35 Stat., 1106).*] If any officer charged with the disbursement of the public moneys accepts, receives, or transmits to the Treasury Department to be allowed in his favor any receipt or voucher from a creditor of the United States without having paid to such creditor in such funds as the officer received for disbursement, or in such funds as he may be authorized by law to take in exchange, the full amount specified in such receipt or voucher, every such act is an act of conversion by such officer to his own use of the amount specified in such receipt or voucher.

Unlawfully receiving, etc., to be embezzlement—Embezzlement by internal-revenue officer or employee and others.

[§5497.] SEC. 96. [*Act of March 4, 1909, Criminal Code (35 Stat., 1106).*] Every banker, broker, or other person not an authorized depository of public moneys, who shall knowingly receive from any disbursing officer, or collector of internal revenue, or other agent of the United States, any public money on deposit, or by way of loan or accommodation, with or without interest, or otherwise than in payment of a debt against the United States, or shall use, transfer, convert, appropriate, or apply any portion of the public money, for any purpose not prescribed by law; and every president, cashier, teller, director, or other officer of any bank or banking association who shall violate any provision of this section is guilty of embezzlement of the public money so deposited, loaned, transferred, used, converted, appropriated, or applied, and shall be fined not more than the amount embezzled, or imprisoned not more than ten years, or both.

United States v. Green (146 Fed., 778; 154 Fed., 402.)

Embezzlement by internal-revenue officer.

[Act February 3, 1879, § 5497.] SEC. 97. [*Act of March 4, 1909, Criminal Code (35 Stat., 1106).*] Any officer connected with, or employed in, the Internal-Revenue Service of the United States, and any assistant of such officer, who shall embezzle or wrongfully convert to his own use any money or other property of the United States, and any officer of the United States, or any assistant of such officer, who shall embezzle or wrongfully convert to his own use any money or property which may have come into his possession or under his control in the execution of such office or employment, or under color or claim of authority as such officer or assistant, whether the same shall be the money or property of the United States or of some other person or party, shall, where the offense is not otherwise punishable by some statute of the United States, be fined not more than the value of the money and property thus embezzled or converted, or imprisoned not more than ten years, or both.

See section 3639, page 667.

Application of laws imposing punishment on internal-revenue officers to certain other classes of persons. (Sec. 23, act of Feb. 8, 1875, 18 Stat., 307; p. 101.)

Embezzlement is the fraudulent appropriation of property by a person to whom it has been intrusted, or into whose hands it has lawfully

come; and it differs from larceny in the fact that the original taking of the property was lawful, or with the consent of the owner, while in larceny the felonious intent must have existed at the time of the taking. (*Moore v. United States*, 180 U. S., 268.)

Penalty for clerks and other officers of United States court failing to deposit moneys.

[§ 5504.] SEC. 99. [*Act of March 4, 1909, Criminal Code (35 Stat., 1106).*] Whoever, being a clerk or other officer of a court of the United States, shall fail forthwith to deposit any money belonging in the registry of the court, or hereafter paid into court or received by the officers thereof, with the Treasurer, assistant treasurer, or a designated depository of the United States, in the name and to the credit of such court, or shall retain or convert to his own use or to the use of another any such money, is guilty of embezzlement, and shall be fined not more than the amount embezzled, or imprisoned not more than ten years, or both; but nothing herein shall be held to prevent the delivery of any such money upon security, according to agreement of parties, under the direction of the court.

Section 8617, page 662.

Howard v. United States. (184 U. S., 676.)

Penalty for receiving money belonging in the registry of the court.

[§5505.] SEC. 100. [*Act of March 4, 1909, Criminal Code (35 Stat., 1107).*] Whoever shall knowingly receive, from a clerk or other officer of a court of the United States, as a deposit, loan, or otherwise, any money belonging in the registry of such court, is guilty of embezzlement, and shall be punished as prescribed in the preceding section.

Penalty for failure to make reports.

[§1780.] SEC. 101. [*Act of March 4, 1909, Criminal Code (35 Stat., 1107).*] Every officer who neglects or refuses to make any return or report which he is required to make at stated times by any Act of Congress or regulation of the Department of the Treasury, other than his accounts, within the time prescribed by such Act or regulation, shall be fined not more than one thousand dollars.

Penalty for making false reports. Act of March 4, 1911. (36 Stat., 1355.)

Waiburning and collecting officers forbidden to trade in public funds or property.

[§§1788, 1789.] SEC. 103. [*Act of March 4, 1909, Criminal Code (35 Stat., 1107).*] Whoever, being an officer of the United States concerned in the collection or the disbursement of the revenues thereof, shall carry on any trade or business in the funds or debts of the United States, or of any State, or in any public property of either, shall be fined not more than three thousand dollars, or imprisoned not more than one year, or both, and be removed from office, and thereafter be incapable of holding any office under the United States.

Certain business forbidden to clerks in Treasury Department. (Sec. 244, p. 702.)

Transcripts from books, etc., of the Treasury, to be evidence in suits against delinquents.

SEC. 886. When suit is brought in any case of delinquency of a revenue officer, or other person accountable for public money, a transcript from the books and proceedings of the Treasury Depart-

ment, certified by the Register and authenticated under the seal of the Department, or, when the suit involves the accounts of the War or Navy Departments, certified by the auditors respectively charged with the examination of those accounts, and authenticated under the seal of the Treasury Department, shall be admitted as evidence, and the court trying the cause shall be authorized to grant judgment and award execution accordingly. And all copies of bonds, contracts, or other papers relating to, or connected with, the settlement of any account between the United States and an individual, when certified by the Register, or by such Auditor, as the case may be, to be true copies of the originals on file, and authenticated under the seal of the Department, may be annexed to such transcripts, and shall have equal validity, and be entitled to the same degree of credit which would be due to the original papers if produced and authenticated in court: *Provided*, That where suit is brought upon a bond or other sealed instrument, and the defendant pleads "non est factum," or makes his motion to the court, verifying such plea or motion by his oath, the court may take the same into consideration, and, if it appears to be necessary for the attainment of justice, may require the production of the original bond, contract, or other paper specified in such affidavit.

Soule v. United States (100 U. S. (10 Otto), 8; 26 Int. Rev. Rec., 4); *United States v. Hunt* (105 U. S. (15 Otto), 183; 28 Int. Rev. Rec., 134).

The form of certificate proper to be used under section 886 is discussed by Mr. Justice Harlan in *United States v. Pinson* (102 U. S., 548; 27 Int. Rev. Rec., 62).

The transcripts from the books and proceedings of the Department of the Treasury and the copies of bonds, contracts, and other papers provided for in section 886 of the Revised Statutes shall hereafter be certified by the Secretary or an Assistant Secretary of the Treasury under the seal of the department (sec. 10, act of March 2, 1895; 28 Stat., 809).

Section 886 applies only to certifying transcripts from the books and proceedings of the Treasury Department and copies of bonds, contracts, or other papers relating to or connected with the settlement of an account when suit is brought in any case of delinquency of a revenue officer or other person accountable for public money.

Transcripts and copies. How furnished. (Department Circular No. 56, June 27, 1906; *Laffan v. United States*, 122 Fed., 333; T. D. 653.)

See section 882, R. S., p. 644.

Effects of certified transcripts from the books of the Treasury Department as evidence in actions against officers accountable for public moneys. (*United States v. Pierson*, 145 Fed., 814.)

Transcripts from books, etc., of the Treasury in indictments for embezzlement of public moneys.

SEC. 887. Upon the trial of any indictment against any person for embezzling public moneys, it shall be sufficient evidence, for the purpose of showing a balance against such person, to produce a transcript from the books and proceedings of the Treasury Department, as provided by the preceding section.

Extracts may be given in evidence. (*United States v. Gaussen*, 19 Wall., 198.)

It is the seal which authenticates the transcript, and not the signature of the Secretary. (*Smith v. United States*, 5 Pet., 292.)

Delinquents for public money; judgment at return term unless, etc.; credits.

SEC. 957. When suit is brought by the United States against any revenue officer or other person accountable for public money, who neglects or refuses to pay into the Treasury the sum or balance

reported to be due to the United States, upon the adjustment of his account it shall be the duty of the court to grant judgment at the return term, upon motion, unless the defendant, in open court, (the United States attorney being present,) makes and subscribes an oath that he is equitably entitled to credits which had been, previous to the commencement of the suit, submitted to the accounting officers of the Treasury, and rejected; specifying in the affidavit each particular claim so rejected, and that he cannot then safely come to trial. If the court, when such oath is made, subscribed, and filed, is thereupon satisfied, a continuance until the next succeeding term may be granted. Such continuance may also be granted when the suit is brought upon a bond or other sealed instrument, and the defendant pleads non est factum, or makes a motion to the court, verifying such plea or motion by his oath, and the court thereupon requires the production of the original bond, contract, or other paper certified in the affidavit. And no continuance shall be granted except as herein provided.

Credits. (*United States v. Flanders*, 112 U. S., 88; 30 Int. Rev. Rec., 397.)

Judgment against a defaulting collector. (*United States v. Ingate* (1891), 48 Fed., 251).

See section 951, page 685, as to claims for credit in suits of United States against individuals.

Notice of deficiency in accounts of principals to be given to sureties upon bonds of United States officials, and fixing a limitation of time within which suits shall be brought against said sureties upon said bonds.

Act of August 8, 1888 (25 Stat., 387). See page 618.

CHAPTER 3.

PROVISIONS OF THE CRIMINAL CODE, ACT OF MARCH 4, 1909 (35 STAT., 1088).

[Repealed sections of the Revised Statutes are noted in brackets.]

PENALTIES FOR PERJURY—OBSTRUCTING PROCESS—RESISTING OFFICERS—RESCUING PRISONERS OR PROPERTY—FALSELY ASSUMING TO BE OFFICER, ETC.

Penalty for perjury.

Penalty for resisting officer in serving process.

Penalty for rescuing prisoners.

Penalty for rescuing or attempting to rescue property taken or detained by revenue officer.

Penalty for extortion by internal-revenue informers.

Penalty for conspiracy to prevent persons from accepting office.

Penalty for falsely assuming to be a Government officer.

Penalty for bribery.

Penalty for conspiracy.

Penalty for destroying or carrying away without authority public records, papers, etc.

Penalty for larceny or robbery of personal property of the United States. Penalty for embezzling or stealing public property or receiving and retaining in possession stolen property.

Penalty for forging, altering, counterfeiting, etc., bid, bond, public record, etc.

Penalty for counterfeiting obligations and other securities of the United States, including stamps.

Penalty for making false or fraudulent claims.

Provisions of the criminal code relative to distilled spirits.

Perjury; penalty for.

SEC. 125. [§5392, R. S.] Whoever, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, shall willfully and contrary to such oath state or subscribe any material matter which he does not believe to be true, is guilty of perjury, and shall be fined not more than two thousand dollars and imprisoned not more than five years.

Indictment for perjury. (*United States v. William K. Smith*, 12 Int. Rev. Rec., 135; *United States v. McConaughy*, 34 Int. Rev. Rec., 80; *United States v. Edwards*, 43 Fed., 67.)

Powers of notaries public to administer oaths. (*United States v. Hall*, 131 U. S., 50.) See section 1778.

The oath must be administered in a proceeding that is valid and regular. It must be authorized by law. The false testimony must be material, and the oath must be administered by one having legal authority to administer it. (See cases cited in *United States v. Bedgood*, 49 Fed., 54.)

United States v. Lamson (165 Fed., 80.)

The oath may be administered by a deputy collector. (*United States v. Hardison*, 135 Fed., 419.)

One falsely swearing to an income-tax return before a commissioner of deeds of the City of New York may be indicted under this section. (*United States v. Benowitz*, T. D. 2952.)

Obstructing or resisting officer in serving writ; penalty.

SEC. 140. [§5398, R. S.] Whoever shall knowingly and willfully obstruct, resist, or oppose any officer of the United States, or other person duly authorized, in serving, or attempting to serve or execute, any mesne process or warrant, or any rule or order, or any other legal or judicial writ or process of any court of the United States, or United States commissioner, or shall assault, beat, or wound any officer or other person duly authorized, knowing him to be such officer, or other person so duly authorized, in serving or executing any such writ, rule, order, process, warrant, or other legal or judicial writ or process, shall be fined not more than three hundred dollars and imprisoned not more than one year.

United States v. Terry (41 Fed., 771.)

Obstructing internal-revenue officer. (3177, p. 110.)

Distiller obstructing officer. (Sec. 3276, p. 225.)

Deputy marshal an officer under this section. (*United States v. Martin*, 17 Fed., 150.)

Rescue of prisoners; penalty.

SEC. 143. [§5401, R. S.] Whoever, by force, shall set at liberty or rescue any person who, before conviction, stands committed for any capital crime; or whoever, by force, shall set at liberty or rescue any person committed for or convicted of any offense other than capital, shall be fined not more than five hundred dollars and imprisoned not more than one year.

Taking seized property from custody of revenue officer, etc.; penalty.

SEC. 65. [§5447, R. S.] Whoever shall forcibly assault, resist, oppose, prevent, impede, or interfere with any officer of the customs or of the internal revenue, or his deputy, or any person assisting him in

the execution of his duties, or any person authorized to make searches and seizures, in the execution of his duty, or shall rescue, attempt to rescue, or cause to be rescued, any property which has been seized by any person so authorized; or whoever before, at, or after such seizure, in order to prevent the seizure or securing of any goods, wares, or merchandise by any person so authorized, shall stave, break, throw overboard, destroy, or remove the same, shall be fined not more than two thousand dollars, or imprisoned not more than one year, or both; and whoever shall use any deadly or dangerous weapon in resisting any person authorized to make searches or seizure, in the execution of his duty, with intent to commit a bodily injury upon him or to deter or prevent him from discharging his duty, shall be imprisoned not more than ten years.

SEC. 71. [§5446, R. S.] Whoever shall dispossess or rescue, or attempt to dispossess or rescue, any property taken or detained by any officer or other person under the authority of any revenue law of the United States, or shall aid or assist therein, shall be fined not more than three hundred dollars and imprisoned not more than one year.

Rescuing property seized by collector. (Sec. 3177, p. 110; secs. 65 and 71 of the Criminal Code, act of March 4, 1909; 35 Stat., 1100, 1101.)

Seized property irrepleviable. (Sec. 934, p. 656.)

Discharging deadly weapon at person authorized to make searches or seizures. (Sec. 65 of the Criminal Code, act of March 4, 1909; 35 Stat., 1100.)

"Any officer." (United States v. Baird, 48 Fed., 554.)

Falsely assuming to be a Government officer; penalty.

SEC. 66. [§5448, R. S.] Whoever shall falsely represent himself to be a revenue officer, and, in such assumed character, demand or receive any money or other article of value from any person for any duty or tax due to the United States, or for any violation or pretended violation of any revenue law of the United States, shall be fined not more than five hundred dollars and imprisoned not more than two years.

SEC. 32. [*Act of April 18, 1884.*] Whoever, with intent to defraud either the United States or any person, shall falsely assume or pretend to be an officer or employee acting under the authority of the United States, or any Department, or any officer of the Government thereof, and shall take upon himself to act as such, or shall in such pretended character demand or obtain from any person or from the United States, or any Department, or any officer of the Government thereof, any money, paper, document, or other valuable thing, shall be fined not more than one thousand dollars, or imprisoned not more than three years, or both.

Indictment under section 5448. (United States v. Brown, 119 Fed., 482; United States v. Farnham, 127 Fed., 478; Littell v. United States, 169 Fed., 620.)

Indictment under section 32, Criminal Code. (United States v. Rush, 196 Fed., 579.)

Bribery; penalty.

SEC. 39. [§5451, R. S.] Whoever shall promise, offer, or give, or cause or procure to be promised, offered, or given, any money or other thing of value, or shall make or tender any contract, under-

taking, obligation, gratuity, or security for the payment of money, or for the delivery or conveyance of anything of value, to any officer of the United States, or to any person acting for or on behalf of the United States in any official function, under or by authority of any department or office of the Government thereof, or to any officer or person acting for or on behalf of either House of Congress, or of any committee of either House, or both Houses thereof, with intent to influence his decision or action on any question, matter, cause, or proceeding which may at any time be pending, or which may by law be brought before him in his official capacity, or in his place of trust or profit, or with intent to influence him to commit or aid in committing, or to collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States, or to induce him to do or omit to do any act in violation of his lawful duty, shall be fined not more than three times the amount of money or value of the thing so offered, promised, given, made, or tendered, or caused or procured to be so offered, promised, given, made, or tendered, and imprisoned not more than three years.

An indictment for offering an internal-revenue officer a bribe to set fire to a distillery situated within the limits of a State is not cognizable by the Federal courts, since there are no common-law offenses against the United States, and section 5451, which makes it a crime to offer to bribe an officer of the United States with intent to influence him to do or omit to do any act in violation of his lawful duty, applies only to acts within the official functions of the officer. (*United States v. Gibson*, 47 Fed., 833.)

"Any officer" of the United States. (*United States v. Ingham*, 97 Fed., 935.)

United States officers accepting bribes; penalty.

SEC. 117. [§§5501, 5502, R. S.] Whoever, being an officer of the United States, or a person acting for or on behalf of the United States, in any official capacity, under or by virtue of the authority of any department or office of the Government thereof; or whoever, being an officer or person acting for or on behalf of either House of Congress, or of any committee of either House, or of both Houses thereof, shall ask, accept, or receive any money, or any contract, promise, undertaking, obligation, gratuity, or security for the payment of money, or for the delivery or conveyance of anything of value, with intent to have his decision or action on any question, matter, cause, or proceeding which may at any time be pending, or which may by law be brought before him in his official capacity, or in his place of trust or profit, influenced thereby, shall be fined not more than three times the amount of money or value of the thing so asked, accepted, or received, and imprisoned not more than three years; and shall, moreover, forfeit his office or place and thereafter be forever disqualified from holding any office of honor, trust, or profit under the Government of the United States.

King v. United States (112 Fed., 988); *United States v. Boyer* (85 Fed., 425; 17 Op. Atty. Gen., 419).

Sections 110, 112, 113, and 114 of the Criminal Code relate to Members of Congress, Delegates in Congress, and Resident Commissioners receiving bribes, etc.

Internal-revenue officer accepting bribes. (Sec. 3169, p. 98.)

District attorney or marshal accepting bribes. (Sec. 3170, p. 101.)

Extortion by informers; penalty.

SEC. 145. [§5484, R. S.] Whoever shall, under a threat of informing, or as a consideration for not informing, against any violation of any law of the United States, demand or receive any money or other valuable thing, shall be find not more than two thousand dollars, or imprisoned not more than one year, or both.

The words "law of the United States" substituted for "internal-revenue law" in section 5484.

Extortion by officer, clerk, agent, or employee of the United States. (Sec. 85 of the Criminal Code, act of March 4, 1909; 35 Stat., 1102.)

Extortion by internal-revenue officer or agent. (Sec. 3169, p. 98.)

Conspiracy to prevent persons from accepting or holding office under United States or to injure an officer in his person or property; penalty.

SEC. 21. [§5518, R. S.] If two or more persons in any State, Territory, or District conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof; or to induce by like means any officer of the United States to leave any State, Territory, District, or place, where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or while engaged in the lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties, each of such persons shall be fined not more than five thousand dollars, or imprisoned not more than six years, or both.

Conspiracy to defraud; penalty.

SEC. 37. [§5440, R. S.] If two or more persons conspire either to commit any offense against the United States, or to defraud the United States in any manner or for any purpose, and one or more of such parties do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be fined not more than ten thousand dollars, or imprisoned not more than two years, or both.

This section was originally enacted as part of the internal-revenue act of June 30, 1864 (13 Stat., 239), and so remained until the revision; now it is under the title "Offenses against the operation of the Government" in the criminal code.

A conspiracy to defraud the Government, though it may be directed to the revenue as its object, is punishable by the general law against all conspiracies, and can hardly be said, in any just sense, to arise under the revenue laws. (*United States v. Hirsch*, 100 U. S. (10 Otto), 33; 25 Int. Rev. Rec., 375.)

What is conspiracy? (*United States v. Rindskopf et al.*, 21 Int. Rev. Rec., 326; Fed. Cas. No. 16165; *United States v. Hamilton*, 22 Int. Rev. Rec., 106.)

There must be an overt act to make the offense complete. (*Hyde v. Shine*, 199 U. S., 62.)

The mere combining or confederating to commit the fraud is sufficient without actual perpetration of it, if any one of the parties has taken a step toward its execution. (*United States v. Callcott*, Fed. Cas. No. 14710, 7 Int. Rev. Rec., 177.)

Declaration of co-conspirators. (*United States v. McKee*, 22 Int. Rev. Rec., 57.)

Limitation on prosecution under this section. (*United States v. Owen et al.*, 34 Int. Rev. Rec., 3.)

History of the conspiracy to defraud the revenue of the tax on spirits in St. Louis from 1871 to 1875. (United States v. McKee, 3 Dill., 546; Fed. Cas. No. 15686; United States v. Babcock, 3 Dill., 583; 22 Int. Rev. Rec., 86.)

Requisites of indictment for conspiracy to defraud. (United States v. Ulrich, 3 Dill., 532; Fed. Cas. No. 16594.)

An indictment charging conspiracy to "commit an offense against the United States" must state an agreement to do acts which, if done, would constitute a specific offense, and where an intent is an essential part of such offense such intent must be averred. (United States v. Green, 136 Fed., 618.)

Definition of conspiracy. (United States v. Green, 146 Fed., 803.)

Indictment must set out overt acts. (United States v. Rogers, 226 Fed., 512.)

Conspiracy to defraud United States of tax on oleomargarine. (United States v. Orr, 223 Fed., 220.)

Where purchases of narcotics by druggist were alleged as overt acts in prosecution of physician and certain druggists for conspiracy to violate Harrison Anti-Narcotic Act, purchases in excess of those alleged were provable as additional overt acts. (Friedman v. United States, 260 Fed., 388.)

Evidence of quantities of narcotics purchased by the druggists was admissible. (Id.)

Evidence of number of narcotic prescriptions filled by the druggists as compared with number filled by other druggists was admissible. (Id.)

There may be a conspiracy to violate section 5 of the act of March 3, 1917 (39 Stat., 1069) by transporting liquor into a prohibition State, indictable under section 37 of the Criminal Code. (Laughter v. United States, 259 Fed., 94.)

Destroying, carrying away, etc., public records; penalty.

SEC. 128. [§5403, R. S.] Whoever shall willfully and unlawfully conceal, remove, mutilate, obliterate, or destroy, or attempt to conceal, remove, mutilate, obliterate, or destroy, or, with intent to conceal, remove, mutilate, obliterate, destroy, or steal, shall take and carry away any record, proceeding, map, book, paper, document, or other thing, filed or deposited with any clerk or officer of any court of the United States, or in any public office, or with any judicial or public officer of the United States, shall be fined not more than two thousand dollars, or imprisoned not more than three years, or both.

Destroying records by officer in charge; penalty.

SEC. 129. [§5408, R. S.] Whoever, having the custody of any record, proceeding, map, book, document, paper, or other thing specified in the preceding section, shall willfully and unlawfully conceal, remove, mutilate, obliterate, falsify, or destroy any such record, proceeding, map, book, document, paper, or thing, shall be fined not more than two thousand dollars, or imprisoned not more than three years, or both; and shall moreover forfeit his office and be forever afterward disqualified from holding any office under the Government of the United States.

Carrying away without authority and unlawfully using papers relating to claims, etc.; penalty.

SEC. 40. [§5454, R. S.] Whoever shall take and carry away, without authority from the United States, from the place where it has been filed, lodged, or deposited, or where it may for the time being actually be kept by authority of the United States, any certificate, affidavit, deposition, written statement of facts, power of attorney, receipt, voucher, assignment, or other document, record, file, or paper, prepared, fitted, or intended to be used or presented in order to procure the payment of money from or by the United States, or any

officer or agent thereof, or the allowance or payment of the whole or any part of any claim, account, or demand against the United States, whether the same has or has not already been so used or presented, and whether such claim, account, or demand, or any part thereof, has or has not already been allowed or paid; or whoever shall present, use, or attempt to use, any such document, record, file, or paper so taken and carried away, in order to procure the payment of any money from or by the United States, or any officer or agent thereof, or the allowance or payment of the whole or any part of any claim, account, or demand against the United States, shall be fined not more than five thousand dollars, or imprisoned not more than ten years, or both.

Robbery or larceny of personal property of the United States; penalty.

SEC. 46. [§5456, R. S.] Whoever shall rob another of any kind or description of personal property belonging to the United States, or shall feloniously take and carry away the same, shall be fined not more than five thousand dollars, or imprisoned not more than ten years, or both.

Postage stamps personal property. (*Jolly v. United States*, 170 U. S., 402.)

Checks. (*Keller v. United States*, 168 Fed., 697.)

Embezzling or stealing public property or receiving and retaining in possession property stolen; penalty.

SEC. 47. [*Sec. 1, Act of March 3, 1875 (18 Stat., 479).*] Whoever shall embezzle, steal, or purloin any money, property, record, voucher, or valuable thing whatever, of the moneys, goods, chattels, records, or property of the United States, shall be fined not more than five thousand dollars, or imprisoned not more than five years, or both.

Embezzlement. (*United States v. Allen*, 150 Fed., 152.)

SEC. 48. [*Sec. 2, Act of March 3, 1875 (18 Stat., 479).*] Whoever shall receive, conceal, or aid in concealing, or shall have or retain in his possession with intent to convert to his own use or gain, any money, property, record, voucher, or valuable thing whatever, of the moneys, goods, chattels, records, or property of the United States, which has theretofore been embezzled, stolen, or purloined by any other person, knowing the same to have been so embezzled, stolen, or purloined, shall be fined not more than five thousand dollars, or imprisoned not more than five years, or both; and such person may be tried either before or after the conviction of the principal offender.

Forging, counterfeiting, etc., bid, bond, public record, etc.; penalty.

SEC. 28. [§§5418, 5479, R. S.] Whoever shall falsely make, alter, forge, or counterfeit, or cause or procure to be falsely made, altered, forged, or counterfeited, or willingly aid, or assist in the false making, altering, forging, or counterfeiting, any bond, bid, proposal, contract, guarantee, security, official bond, public record, affidavit, or other writing for the purpose of defrauding the United States; or shall utter or publish as true, or cause to be uttered or published as true, or have in his possession with the intent to utter or publish as true, any such false, forged, altered, or counterfeited bond, bid, proposal, contract, guarantee, security, official bond, public record, affi-

davit, or other writing, for the purpose of defrauding the United States, knowing the same to be false, forged, altered, or counterfeited; or shall transmit to, or present at, or cause or procure to be transmitted to, or presented at, the office of any officer of the United States, any such false, forged, altered, or counterfeited bond, bid, proposal, contract, guarantee, security, official bond, public record, affidavit, or other writing, knowing the same to be false, forged, altered, or counterfeited, for the purpose of defrauding the United States, shall be fined not more than one thousand dollars, or imprisoned not more than ten years, or both.

Counterfeiting United States securities and stamps; penalty.

SEC. 148. [§5414, R. S.] Whoever, with intent to defraud, shall falsely make, forge, counterfeit, or alter any obligation or other security of the United States shall be fined not more than five thousand dollars and imprisoned not more than fifteen years.

SEC. 147. [§5413, R. S.] The words "obligation or other security of the United States" shall be held to mean all bonds, certificates of indebtedness, national-bank currency, coupons, United States notes, Treasury notes, gold certificates, silver certificates, fractional notes, certificates of deposit, bills, checks, or drafts for money, drawn by or upon authorized officers of the United States, stamps and other representatives of value, of whatever denomination, which have been or may be issued under any Act of Congress.

See also sections 151, 152, 153, 154, R. S.

Counterfeit money, act of February 10, 1891. (*United States v. Kuhl* (1898), 85 Fed., 624.)

Counterfeiting, etc., revenue stamps and punishment for. Section 7, act of October 22, 1914 (38 Stat., 754), and section 8, act of April 9, 1912 (37 Stat., 82).

Making or presenting false, fictitious, or fraudulent claims; penalty.

SEC. 35. [§5438, R. S.] Whoever shall make or cause to be made, or present or cause to be presented, for payment or approval, to or by any person or officer in the civil, military, or naval service of the United States, any claim upon or against the Government of the United States, or any department or officer thereof, knowing such claim to be false, fictitious, or fraudulent; or whoever, for the purpose of obtaining or aiding to obtain the payment or approval of such claim, shall make or use, or cause to be made or used, any false bill, receipt, voucher, roll, account, claim, certificate, affidavit, or deposition, knowing the same to contain any fraudulent or fictitious statement or entry; or whoever shall enter into any agreement, combination, or conspiracy to defraud the Government of the United States, or any department or officer thereof, by obtaining or aiding to obtain the payment or allowance of any false or fraudulent claim; or whoever, having charge, possession, custody, or control of any money or other public property used or to be used in the military or naval service, with intent to defraud the United States or willfully to conceal such money or other property, shall deliver or cause to be delivered, to any other person having authority to receive the same, any amount of such money or other property less than that for which he received a certificate or took a receipt; or whoever, being

authorized to make or deliver any certificate, voucher, receipt, or other paper certifying the receipt of arms, ammunition, provisions, clothing, or other property so used or to be used, shall make or deliver the same to any other person without a full knowledge of the truth of the facts stated therein, and with intent to defraud the United States, shall be fined not more than five thousand dollars, or imprisoned not more than five years, or both. And whoever shall knowingly purchase or receive in pledge for any obligation or indebtedness from any soldier, officer, sailor, or other person called into or employed in the military or naval service, any arms, equipments, ammunition, clothes, military stores, or other public property, whether furnished to the soldier, sailor, officer, or person, under a clothing allowance or otherwise, such soldier, sailor, officer, or other person not having the lawful right to pledge or sell the same, shall be fined not more than five hundred dollars, and imprisoned not more than two years.

Deputy marshal presenting false claim. (*United States v. Strobach*, 48 Fed., 902.)

Provisions of the Criminal Code relative to interstate shipments of distilled spirits.

AN ACT To codify, revise, and amend the penal laws of the United States, approved March 4, 1909 (35 Stat., 1136), taking effect January 1, 1910.

SEC. 238. Any officer, agent, or employee of any railroad company, express company, or other common carrier, who shall knowingly deliver or cause to be delivered to any person other than the person to whom it has been consigned, unless upon the written order in each instance of the bona fide consignee, or to any fictitious person, or to any person under a fictitious name, any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind which has been shipped from one State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, into any other State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, or from any foreign country into any State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, shall be fined not more than five thousand dollars, or imprisoned not more than two years, or both.

SEC. 239. Any railroad company, express company, or other common carrier, or any other person who, in connection with the transportation of any spirituous, vinous, malted, fermented, or other intoxicating liquor of any kind, from one State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, into any other State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, or from any foreign country into any State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, shall collect the purchase price or any part thereof, before, on, or after delivery, from the consignee, or from any other person, or shall in any manner act as the agent of the buyer or seller of any such liquor, for the purpose of buying or selling or completing the sale thereof, saving only in the actual transportation and delivery of the same, shall be fined not more than five thousand dollars.

SEC. 240. Whoever shall knowingly ship or cause to be shipped, from one State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, into any other State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, or from any foreign country into any State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, any package of or package containing any spirituous, vinous, malted, fermented, or other, intoxicating liquor of any kind, unless such package be so labeled on the outside cover as to plainly show the name of the consignee, the nature of its contents, and the quantity contained therein, shall be fined not more than five thousand dollars; and such liquor shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the seizure and forfeiture of property imported into the United States contrary to law.

Labeling of liquors under section 240, Criminal Code, act of March 4, 1909 (35 Stat., 1137). Instructions to customs officers. (28 Op. Atty. Gen., 99, December 16, 1909; T. D. 30393.)

Sections 238, 239, and 240 of the Criminal Code, effective January 1, 1910, are part of Chapter IX, entitled "Offenses against foreign and interstate commerce," and are not required to be enforced through the office of Internal Revenue. (T. D. 1589.)

Criminal Code, modification of T. D. 1589.—Instructions to revenue officers relative to seizure of property forfeited for violation of section 240 of the Penal Code, effective January 1, 1910—According to Attorney General, right to seize vested in any person. (T. D. 1610.)

Carriers are prohibited from giving information concerning shipments handled by them, except in response to legal process from the court or proper State or United States officer. (Sec. 15, act February 4, 1887, "An act to regulate commerce," amended by sec. 12, act June 18, 1910, 36 Stat., 551.)

Constitutionality of proposed liquor law. (30 Op. Atty. Gen., 88.)

Shipment of liquor as baggage. (T. D. 2437.)

A bank collecting a draft attached to a bill of lading for liquor transported in interstate commerce from the purchaser not within the statute. (*Danciger v. Stone*, 188 Fed., 511; *United States v. Bank of Anamoose*, 206 Fed., 374; 29 Op. Atty. Gen., 59.)

CHAPTER 4.

CLAIMS—PAYMENT TO PERSON IN ARREARS—SET-OFFS—CREDITS, ETC.

Claims.

No payment to person in arrears to the United States.

Set-offs and credits.

Priority of United States in insolvent estates.

Permanent annual appropriations.

No expenditures beyond appropriations.

Heads of Departments prohibited from accepting voluntary service for the Government.

Unauthorized contracts prohibited.

Unexpended balances of appropriations.

Assignment of claims void, unless, etc. Attorneys before the Treasury Department.

Duplicate checks when original is lost. Letters, packages, etc., on Government business sent free; penalty envelopes. Government to have priority in the transmission of telegrams.

Disposition of useless papers.

Claims to be adjusted in the Treasury Department.

SEC. 236. All claims and demands whatever by the United States or against them, and all accounts whatever in which the United States

are concerned either as debtors or as creditors, shall be settled and adjusted in the Department of the Treasury.

The doctrine that the United States can not be sued without its consent examined and reaffirmed. (*United States v. Lee*, 106 U. S., 196; 29 Int. Rev. Rec., 1.)

The United States, by various acts of Congress, have consented to be sued in their own courts in certain classes of cases; but they have never consented to be sued in the courts of a State in any case. (*Stanley v. Schwalby*, 162 U. S., 255.)

The United States have never, either by the act of March 3, 1887, or by any other law, permitted themselves to be sued for torts committed by their officers. (*Hill v. United States*, 149 U. S., 593.)

A court of claims was created by the act of February 24, 1855 (sec. 1049). Cases arising under the revenue laws not within the jurisdiction of the Court of Claims. (*Nichols v. United States*, 7 Wall., 129.) In view of subsequent statutes, the broad statement in the *Nichols* case, if still true, it was held in *Dooley v. United States*, 182 U. S., 222, 225, must be accepted with material qualifications, and it was decided that the Court of Claims had jurisdiction of claim to recover duties illegally exacted upon merchandise alleged not to have been imported from a foreign country.

Jurisdiction of the Court of Claims. "The Judicial Code" (act of March 3, 1911, sec. 145, 36 Stat., 1067).

Section 148, Judicial Code, as to head of department transmitting claims to the Court of Claims. (*Hart v. United States*, 15 Ct. Cls., 414; *United States v. New York*, 160 U. S., 598.)

The limitation of two years (sec. 3227) applies in internal revenue cases brought under act of March 3, 1887, against the United States and not six years as provided by act. (*Christie St. Com. Co. v. United States*, 136 Fed., 328.)

State claims. (*Waddell v. United States*, 25 Ct. Cls., 323; *State of New Hampshire v. United States*, 36 Ct. Cls., 568; 9 Op. Atty. Gen., 204.)

The rule that a final decision upon a knowledge of all the facts made by an officer authorized to decide on claims against the Government is not liable to be reopened and reviewed by his successor in office unless the decision is founded on mistakes in matters of fact arising from errors in calculation, or the absence of material testimony afterwards discovered and produced, is well established. (*United States v. Bank of Metropolis*, 15 Pet., 377; *Rollins and Presbrey v. United States*, 23 Ct. Cls., 123; 10 Op. Atty. Gen., 56; 19 Ct. Cls., 505.)

Attorney General Taney said: "For if a final decision, upon a knowledge of all the facts, made by an officer authorized to decide on claims against the Government, is liable to be opened and reviewed by his successor in office, every change in the officer will produce a new hearing of the claim, and the accounts of the Government will always remain open and unsettled." (2 Op. Atty. Gen., 464; see also 14 Op. Atty. Gen., 275; 18 Int. Rev. Rec., 28, and cases there cited; also 13 Op. Atty. Gen., 388, 457; 19 Comp. Dec., 110.)

When an account has once been adjusted by the accounting officers, it can not be reopened unless relief is afforded by special act. (4 Op. Atty. Gen., 378; 12 Id., 386.)

A decision in the Court of Claims, while it is not binding, is authority for the head of a department to reopen a case. (9 Op. Atty. Gen. (Black), 422.)

The accounting officers of the Treasury are not authorized to reopen accounts for the purpose of correcting decisions upon questions of law subsequently held to be erroneous. (VI Comp. Dec., 91.)

The principle of *res adjudicata* applies to departmental action of a final nature. (20 Op. Atty. Gen., 280; XI Comp. Dec., 459, 676; *Day v. United States*, 21 Ct. Cls., 262.)

New evidence discovered. (IX Comp. Dec., 107.)

Not the duty of a head of department to make estimates for appropriations to pay claims which the law does not provide for. (*Pitman et al. v. United States*, 20 Ct. Cls., 253.)

Accounting officers can not revise judgments of court. (*O'Grady v. United States*, 22 Wall., 641.)

Subpoenas to witnesses in matters relating to claims.

SEC. 184. Any head of a Department or Bureau in which a claim against the United States is properly pending may apply to any judge or clerk of any court of the United States, in any State, District, or Territory, to issue a subpoena for a witness being within the jurisdiction of such court, to appear at a time and place in the subpoena stated, before any officer authorized to take depositions to be used in the courts of the United States, there to give full and true answers to such written interrogatories and cross-interrogatories as may be submitted with the application, or to be orally examined and cross-examined upon the subject of such claim.

No payment to person in arrears to the United States.

SEC. 1766. No money shall be paid to any person for his compensation who is in arrears to the United States, until he has accounted for and paid into the Treasury all sums for which he may be liable. In all cases where the pay or salary of any person is withheld in pursuance of this section, the accounting officers of the Treasury, if required to do so by the party, his agent or attorney, shall report forthwith to the Solicitor of the Treasury the balance due; and the Solicitor shall, within sixty days thereafter, order suit to be commenced against such delinquent and his sureties.

Set-offs. (Bonnafon's case, 14 Ct. Cls., 484; Taggart's case, 17 Ct. Cls., 322; 28 Int. Rev. Rec., 162; 17 Op. Atty. Gen., 677; McKnight v. United States, 98 U. S., 179.)

Money offered in compromise can not be set off against taxes assessed. (Boughton v. United States, 13 Ct. Cls., 284.)

The salary of a Federal judge can not be withheld to meet a judgment recovered against him as surety for a former Government employee. (20 Op. Atty. Gen., 627.)

Meaning and scope of section 1766, where a clerk is a judgment debtor of the United States. (26 Op. Atty. Gen., 77.)

Deduction of debt due the United States from any judgment recovered or claim allowed.

[Act of March 3, 1875 (18 Stat., 481).]

That when any final judgment recovered against the United States or other claim duly allowed by legal authority, shall be presented to the Secretary of the Treasury for payment, and the plaintiff or claimant therein shall be indebted to the United States in any manner, whether as principal or surety, it shall be the duty of the Secretary to withhold payment of an amount of such judgment or claim equal to the debt thus due to the United States; and if such plaintiff or claimant assents to such set-off, and discharges his judgment or an amount thereof equal to said debt or claim, the Secretary shall execute a discharge of the debt due from the plaintiff to the United States.

But if such plaintiff, or claimant, denies his indebtedness to the United States, or refuses to consent to the set-off, then the Secretary shall withhold payment of such further amount of such judgment, or claim, as in his opinion will be sufficient to cover all legal charges and costs in prosecuting the debt of the United States to final judgment.

And if such debt is not already in suit, it shall be the duty of the Secretary to cause legal proceedings to be immediately commenced to

enforce the same, and to cause the same to be prosecuted to final judgment with all reasonable dispatch.

And if in such action judgment shall be rendered against the United States, or the amount recovered for debt and costs shall be less than the amount so withheld as before provided, the balance shall then be paid over to such plaintiff by such Secretary with six per cent interest thereon for the time it has been withheld from the plaintiff.

As to interest, see *Stephani's case* (26 Int. Rev. Rec., 314), and section 966, p. 649.

Sanborn's case, decision of First Comptroller. (28 Int. Rev. Rec., 265).

Suits of United States against individuals; what credits allowed.

SEC. 951. In suits brought by the United States against individuals, no claim for a credit shall be admitted, upon trial, except such as appear to have been presented to the accounting officers of the Treasury, for their examination, and to have been by them disallowed, in whole or in part, unless it is proved to the satisfaction of the court that the defendant is, at the time of the trial, in possession of vouchers not before in his power to procure, and that he was prevented from exhibiting a claim for such credit at the Treasury by absence from the United States or by some unavoidable accident.

Section 957, page 672.

United States v. Kimball (101 U. S. (11 Otto), 725); *Western Union Railroad Co. v. United States* (101 U. S., 543; 26 Int. Rev. Rec., 165).

In an action by the United States to recover an alleged debt, the defendant can not recover an affirmative judgment against the Government on a counter claim, although it may be determined that there is a balance due him. (*United States v. Gillies*, 144 Fed., 991; *United States v. Pierson*, 145 Fed., 814.)

Counter claims; statute does not authorize a judgment for an excess against the Government. (*United States v. Nipissing Mines Co.*, 206 Fed., 431.)

Priority of United States in insolvent estates.

SEC. 3466. Whenever any person indebted to the United States is insolvent, or whenever the estate of any deceased debtor, in the hands of the executors or administrators, is insufficient to pay all the debts due from the deceased, the debts due to the United States shall be first satisfied; and the priority hereby established shall extend as well to cases in which a debtor, not having sufficient property to pay all his debts, makes a voluntary assignment thereof, or in which the estate and effects of an absconding, concealed, or absent debtor are attached by process of law, as to cases in which an act of bankruptcy is committed.

Lewis, trustee, v. United States. (92 U. S., 618; 22 Int. Rev. Rec., 186.)

Act of July 1, 1898. (30 Stat., 544-566), to establish a uniform system of bankruptcy throughout the United States, amended by acts of February 5, 1903, June 15, 1906, and June 25, 1910.

Debts which have priority. (Sec. 64, act of July 1, 1898.)

A discharge in bankruptcy does not release a bankrupt from taxes due. (Sec. 17, act of July 1, 1898.)

Penalty can not be collected from a bankrupt unless Government has suffered a pecuniary loss. (Sec. 57, act of July 1, 1898.)

Taxes entitled to priority. (*Title Guaranty & Surety Co. v. Guarantee Title & T. Co.*, 174 Fed., 388; in re *Weissman*, 178 Fed., 115.)

The right of the United States to priority of payment does not extinguish or supersede a specific lien. (*United States v. Duncan*, 4 McLean, 607; 9 Op. Atty. Gen., 28.)

The right to priority is not a lien upon the debtor's property, but a right to receive payment out of the general estate or funds of the debtor before other claims are satisfied. (*United States v. Eggleston*, 23 Int. Rev. Rec., 113.)

Procedure in case of property assessed in hands of receiver. (T. D. 667.)

Liability of executors, etc., to United States.

SEC. 3467. Every executor, administrator, or assignee, or other person, who pays any debt due by the person or estate from whom or for which he acts, before he satisfies and pays the debts due to the United States from such person or estate, shall become answerable in his own person and estate for the debts so due to the United States, or for so much thereof as may remain due and unpaid.

The priority of the United States, under the provisions of sections 3466 and 3467, R. S., extends to all classes of debts, and to all the debtor's estate which comes to the hands of his assignee. The assignee becomes a trustee for the United States, and, when he has notice of the debt due the Government, he can not escape personal liability for the amount of it, to the extent of the value of the assets coming to his hands, if he fails to provide for it before making distribution to other creditors. (*United States v. Barnes*, 31 Fed., 705.)

Permanent annual appropriations.

SEC. 3689. There are appropriated, out of any moneys in the Treasury not otherwise appropriated, for the purposes hereinafter specified, such sums as may be necessary for the same respectively; and such appropriations shall be deemed permanent annual appropriations.

* * * * *

Refunding moneys erroneously received and covered:

To refund moneys received and covered into the Treasury before the payment of legal and just charges against the same.

* * * * *

Allowances and drawbacks (internal revenue):

Indefinite appropriation to pay allowance or drawback on articles on which any internal duty or tax shall have been paid when said articles are exported under the act of July one, eighteen hundred and sixty-two, chapter one hundred and nineteen [section three thousand four hundred and forty-one].

See as to appropriation to pay drawback on tobacco, section 3386, page 276. No appropriation is made for paying drawback on stills allowable under act of March 1, 1879.

Refunding taxes illegally collected (internal revenue):¹

To refund and pay back duties erroneously or illegally assessed or collected under the internal-revenue laws.

¹ Section 1316(c) of the act of February 24, 1919, provides as follows: "That the paragraph of section 3689 of the Revised Statutes, as amended, reading as follows: 'Refunding taxes illegally collected (internal revenue): To refund and pay back duties erroneously or illegally assessed or collected under the internal-revenue laws,' is repealed from and after June 30, 1920; and the Secretary of the Treasury shall submit for the fiscal year 1921, and annually thereafter, an estimate of appropriations to refund and pay back duties or taxes erroneously or illegally assessed or collected under the internal-revenue laws, and to pay judgments, including interest and costs, rendered for taxes or penalties erroneously or illegally assessed or collected under the internal-revenue laws."

Redemption of stamps (internal revenue) :

Of such sum of money as may be necessary to repay the amount or value paid for internal-revenue stamps which may have been spoiled, destroyed, or rendered useless or unfit for the purpose intended, or which through mistake may have been improperly or unnecessarily used.

* * * * *

So much of this section as provided a permanent annual appropriation of 1 per centum of the entire debt of the United States to be set apart as a sinking fund, was repealed by section 6 (b) of act of March 3, 1919 (40 Stat. 1312).

A permanent annual appropriation is subject to the same limitations as appropriations enacted annually. (22 Comp. Dec., 295.)

Application of moneys appropriated.

SEC. 3678. All sums appropriated for the various branches of expenditure in the public service shall be applied solely to the objects for which they are respectively made, and for no others.

No expenditures in excess of appropriations—Penalty for violation.

SEC. 3679. [*Amended by sec. 4, act of March 3, 1905 (33 Stat., 1214, 1257) and sec. 3, act of February 27, 1906 (34 Stat., 49).*] No Executive Department or other Government establishment of the United States shall expend, in any one fiscal year, any sum in excess of appropriations made by Congress for that fiscal year, or involve the Government in any contract or other obligation for the future payment of money in excess of such appropriations unless such contract or obligation is authorized by law. Nor shall any Department or any officer of the Government accept voluntary service for the Government or employ personal service in excess of that authorized by law, except in cases of sudden emergency involving the loss of human life or the destruction of property. All appropriations made for contingent expenses or other general purposes, except appropriations made in fulfillment of contract obligations expressly authorized by law, or for objects required or authorized by law without reference to the amounts annually appropriated therefor, shall, on or before the beginning of each fiscal year, be so apportioned by monthly or other allotments as to prevent expenditures in one portion of the year which may necessitate deficiency or additional appropriations to complete the service of the fiscal year for which said appropriations are made; and all such apportionments shall be adhered to and shall not be waived or modified except upon the happening of some extraordinary emergency or unusual circumstance which could not be anticipated at the time of making such apportionment, but this provision shall not apply to the contingent appropriations of the Senate or House of Representatives; and in case said apportionments are waived or modified as herein provided, the same shall be waived or modified in writing by the head of such Executive Department or other Government establishment having control of the expenditure, and the reasons therefor shall be fully set forth in each particular case and communicated to Congress in connection with estimates for any additional appropriations required on account thereof. Any person violating any provision of this section shall be

summarily removed from office and may also be punished by a fine of not less than one hundred dollars or by imprisonment for not less than one month.

Apportionment of amount to be expended by each bureau—purchases limited to contingent funds.

SEC. 6. [*Act of August 23, 1912 (37 Stat., 414).*] That in addition to the apportionment required by the so-called antideficiency act, approved February twenty-seventh, nineteen hundred and six (Statutes at Large, volume thirty-four, page forty-nine), the head of each executive department shall, on or before the beginning of each fiscal year, apportion to each office or bureau of his department the maximum amount to be expended therefor during the fiscal year out of the contingent fund or funds appropriated for the entire year for the department, and the amounts so apportioned shall not be increased or diminished during the year for which made except upon the written direction of the head of the department, in which there shall be fully expressed his reasons therefor; and hereafter there shall not be purchased out of any other fund any article for use in any office or bureau of any executive department in Washington, District of Columbia, which could be purchased out of the appropriations made for the regular contingent funds of such department or of its offices or bureaus.

SEC. 9. [*Act of June 30, 1906 (34 Stat., 764).*] No act of Congress hereafter passed shall be construed to make an appropriation out of the Treasury of the United States, or to authorize the execution of a contract involving the payment of money in excess of appropriations made by law, unless such Act shall in specific terms declare an appropriation to be made or that a contract may be executed.

By the act of July 7, 1884, deficiency appropriation act (23 Stat., 254), the Secretary of the Treasury is required to report to Congress at the commencement of each session amount due claimants upon claims allowed in whole or in part.

When a claim must be certified to Congress for an appropriation. (22 Compt. Dec., 204.)

Unauthorized contracts prohibited.

SEC. 3732. No contract or purchase on behalf of the United States shall be made, unless the same is authorized by law, or is under an appropriation adequate to its fulfillment, except in the War and Navy Departments, for clothing, subsistence, forage, fuel, quarters, or transportation, which, however, shall not exceed the necessities of the current year.

19 Op. Atty. Gen., 650.

Expenditure of balances of appropriations.

SEC. 3690. All balances of appropriations contained in the annual appropriation bills, and made specifically for the service of any fiscal year, and remaining unexpended at the expiration of such fiscal year, shall only be applied to the payment of expenses properly incurred during that year, or to the fulfillment of contracts properly made within that year; and balances not needed for such purposes shall be

carried to the surplus fund. This section, however, shall not apply to appropriations known as permanent or indefinite appropriations.

Department Circular No. 133, dated December 15, 1903, requires that all unexpended balances of annual appropriations be deposited to the credit of the Treasurer of the United States as soon as practicable after the expiration of the fiscal year for which they were made.

Unexpended balances of appropriations after two years to be covered into Treasury.

SEC. 5. [*Act of June 20, 1874 (18 Stat., 110).*] That from and after the first day of July, eighteen hundred and seventy-four, and of each year thereafter, the Secretary of the Treasury shall cause all unexpended balances of appropriations which shall have remained upon the books of the Treasury for two fiscal years to be carried to the surplus fund and covered into the Treasury:

Provided, That this provision shall not apply to permanent specific appropriations. * * *

XI Comp. Dec., 400.

Funds in the hands of disbursing officers. (15 Op. Atty. Gen., 357.)

SEC. 10. [*Act of March 4, 1909 (35 Stat., 1027).*] The Secretary of the Treasury shall cause all unexpended balances of appropriations which remained on the books of the Treasury on the first day of July, nineteen hundred and four, except permanent specific appropriations, judgments and findings of courts, trust funds, and appropriations for fulfilling treaty obligations with the Indians, to be carried to the surplus fund and covered into the Treasury: *Provided*, That such sums of said balances as may be needed to pay contracts existing and not fully discharged at the date of this Act shall remain available for said purposes. For the purposes herein declared no appropriation made prior to July first, nineteen hundred and four, shall be construed to be a permanent specific appropriation unless by its language it is specifically and in express terms made available for use until expended.

Dept. Cir. No. 133, December 15, 1903.

Advances of public moneys prohibited.

SEC. 3648. No advance of public money shall be made in any case whatever. And in all cases of contracts for the performance of any service, or the delivery of articles of any description, for the use of the United States, payment shall not exceed the value of the service rendered, or of the articles delivered previously to such payment. It shall, however, be lawful, under the special direction of the President, to make such advances to the disbursing officers of the Government as may be necessary to the faithful and prompt discharge of their respective duties, and to the fulfillment of the public engagements.
* * *

XII Comp. Dec., 67.

Assignment of claims void, unless, etc.

SEC. 3477. All transfers and assignments made of any claim upon the United States, or of any part or share thereof, or interest therein, whether absolute or conditional, and whatever may be the considera-

tion therefor, and all powers of attorney, orders, or other authorities for receiving payment of any such claim, or of any part or share thereof, shall be absolutely null and void, unless they are freely made and executed in the presence of at least two attesting witnesses, after the allowance of such a claim, the ascertainment of the amount due, and the issuing of a warrant for the payment thereof. Such transfers, assignments, and powers of attorney, must recite the warrant for payment, and must be acknowledged by the person making them, before an officer having authority to take acknowledgment of deeds, and shall be certified by the officer; and it must appear by the certificate that the officer, at the time of the acknowledgment, read and fully explained the transfer, assignment, or warrant of attorney to the person acknowledging the same.

United States *v. Gillis* (95 U. S., 407); *Spofford v. Kirk* (79 U. S., 484); *McKnight v. United States* (98 U. S., 185); *Goodman v. Niblack* (102 U. S., 560; 11 Op. Atty. Gen., 520; 16 Id., 262); *Lopez v. United States* (35 Int. Rev. Rec., 31; 17 Op. Atty. Gen., 545); *Price v. Forrest* (173 U. S., 410).

Payment to attorney in fact holding unrevoked power of attorney executed prior to allowance of claim good as between the Government and claimant. (*Bailey et al. v. United States*, 109 U. S., 432; 29 Int. Rev. Rec., 420.)

This section does not apply to transfers by operation of law (*Erwin v. United States*, 97 U. S., 392; *Butler v. Goreley*, 146 U. S., 303).

Indorsement and payment of Treasury warrants. (See Dept. Cir. No. 41, Apr. 23, 1902.)

Assignment of claims—laws and decisions considered. (VI Comp. Dec. 101; 22 Op. Atty. Gen., 637; 25 Id., 279; 17 Comp. Dec., 467.)

Power of attorney for indorsement of checks in payment of claims. (Dept. Cir. No. 21, Oct. 28, 1913.)

Attorneys before the Treasury Department.

SEC. 3. [*Act of July 7, 1884 (23 Stat., 258).*] * * * That the Secretary of the Treasury may prescribe rules and regulations governing the recognition of agents, attorneys, or other persons representing claimants before his Department, and may require of such persons, agents, and attorneys, before being recognized as representatives of claimants, that they shall show that they are of good character and in good repute, possessed of the necessary qualifications to enable them to render such claimants valuable service, and otherwise competent to advise and assist such claimants in the presentation of their cases. And such Secretary may, after due notice and opportunity for hearing, suspend and disbar from further practice before his Department any such person, agent, or attorney, shown to be incompetent, disreputable, or who refuses to comply with the said rules and regulations, or who shall with intent to defraud, in any manner willfully and knowingly deceive, mislead, or threaten any claimant or prospective claimant, by word, circular, letter, or by advertisement.

Drafts in payment of claims to be delivered to claimant, and not to attorneys. (32 Int. Rev. Rec., 325.)

Regulations governing attorneys and agents practicing before the Treasury Department. (Dept. Cir. No. 13, Feb. 6, 1886; Dept. Cir. No. 94, Oct. 14, 1890; 36 Int. Rev. Rec., 327.)

Delivering warrants to attorneys. (25 Op. Atty. Gen., 279.)

Use of name of Members of Congress by one practicing before department of Government.

SEC. 1. [*Act of April 27, 1916 (39 Stat., 54).*] That it shall be unlawful for any person, firm, or corporation practicing before any department or office of the Government to use the name of any Member of either House of Congress or of any officer of the Government in advertising the said business.

SEC. 2. That this Act shall take effect three months after its date.

Duplicate checks authorized whenever any original check is lost, stolen, or destroyed.

Sections 3646 and 3647, amended by the act of February 23, 1909. (35 Stat., 643.) Regulations No. 2, revised, page 102. Section 3646, amended by act of March 21, 1916 (39 Stat., 37); 80 Op. Atty. Gen., 66 (Dept. Cir. No. 54, Feb. 7, 1916).

Letters, packages, etc., on Government business sent free—Penalty envelopes.

SEC. 5. [*Act of March 3, 1877 (19 Stat., 335).*] That it shall be lawful to transmit through the mail free of postage any letters, packages, or other matters relating exclusively to the business of the Government of the United States: *Provided*, That every such letter or package, to entitle it to pass free, shall bear over the words "Official business" an endorsement showing also the name of the Department, and, if from a bureau or office, the names of the Department, and bureau or office, as the case may be, whence transmitted. And if any person shall make use of any such official envelope to avoid the payment of postage on his private letter, package, or other matter in the mail, the person so offending shall be deemed guilty of a misdemeanor, and subject to a fine of three hundred dollars, to be prosecuted in any court of competent jurisdiction.

SEC. 6. That for the purpose of carrying this act into effect, it shall be the duty of each of the Executive Departments of the United States, to provide for itself and its subordinate officers the necessary envelopes; and in addition to the endorsement designating the Department in which they are to be used, the penalty for the unlawful use of these envelopes shall be stated thereon.

15 Op. Atty. Gen., 262; 16 Id., 455; 17 Id., 255, 264.

As to the Philippines, 24 Id., 534.

Section 29 of the act of March 3, 1879 (20 Stat., 355), amended by the act of July 5, 1884 (23 Stat., 156), extends the provisions of the above act to all officers of the United States Government, not including Members of Congress, except to pension agents or other officers who receive a fixed allowance for their service, including expenses for postage. Includes United States Commissioners. (17 Op. Atty. Gen., 183, 631.)

Abuse of official frank. (Circular letter, Nov. 25, 1895; 41 Int Rev. Rec., 489.)

Unlawful use of penalty envelopes. (Circular No. 344; 36 Int. Rev. Rec., 149; Circular No. 599; T. D. 319.)

The right to use penalty envelopes. (T. D. 265; T. D. 833.)

Fraudulent use of official envelopes. (Sec. 227, act of March 4, 1909, 35 Stat., 1134.)

Franking official mail matter. (T. D. 1844.)

Penalty envelopes can not be used by rectifiers to transmit reports. (T. D. 2221.)

SEC. 2. [*Act of March 3, 1883 (22 Stat., 563).*] * * * And it shall be the duty of the respective Departments to inclose to Senators, Representatives, and Delegates in Congress, in all official communi-

cations requiring answers, or to be forwarded to others penalty envelopes addressed as far as practicable, for forwarding or answering such official correspondence.

Inclosing envelopes with return addresses. (Act of July 5, 1884, 23 Stat. 158.)

Government to have priority in transmission of telegrams.

SEC. 5266. Telegrams between the several Departments of the Government and their officers and agents, in their transmission over the lines of any telegraph company to which has been given the right of way, timber, or station lands from the public domain shall have priority over all other business, at such rates as the Postmaster-General shall annually fix. And no part of any appropriation for the several Departments of the Government shall be paid to any company which neglects or refuses to transmit such telegrams in accordance with the provisions of this section.

Official telegraphing. (Dept. Cir. No. 19, Aug. 21, 1913.)

Government rates for telegraphing. (Regulations No. 2, revised, p. 128.)

Telegrams of a personal character addressed to Office of the Commissioner of Internal Revenue must be prepaid. Where a response to such dispatches is required payment therefor must be provided for by the person in interest. (T. D. 19221; T. D. 444.)

In addressing official telegraphic messages, it is necessary to use only the words "Commissioner Internal Revenue, Washington, D. C.," the name of the Commissioner or of a deputy commissioner being superfluous. (T. D. 444; Cir. No. 613.)

Regulations concerning official telegrams. (T. D. 1879.)

Mimeograph letter 985, January 13, 1914, use of night telegrams and the use of only the surname and official title of the sender.

Disposition of useless papers.

The act to authorize and provide for the disposition of useless papers in the executive departments, approved February 16, 1889 (25 Stat., 672; 35 Int. Rev. Rec., 62; 1 Supp. R. S., 644), provides that whenever there shall be in any one of the executive departments an accumulation of papers, which are not needed or useful in the transaction of the current business, and have no permanent value or historical interest, it shall be the duty of the head of the department to submit to Congress a report of that fact, accompanied by a concise statement of the condition and character of such papers.

After destruction has been authorized by Congress, it is the duty of the head of the department to sell such papers as waste paper, after due publication, to pay the proceeds into the Treasury, and make report to Congress.

This act was amended by the sundry civil appropriation act of March 2, 1895 (28 Stat., 933), "so as to include in its provisions any accumulation of files of papers of a like character therein described now or hereafter in the various public buildings under the control of the several executive departments of the Government."

CHAPTER 5.

OFFICERS, CLERKS, AND EMPLOYEES.

Honorably discharged soldiers or sailors disabled in the service preferred for appointment.

Preference given to soldiers and soldiers' widows in reducing force.

Removals and reductions.

Efficiency ratings.

Employees to be paid from special appropriations only.

Transfers and details.

Lump-sum appropriations.

Holidays.

Double salaries, compensation for extra services, perquisites, etc.

Expenses of clerks, officers, etc., sent away as witnesses.
 No mileage beyond travelling expenses allowed.
 Certain business forbidden to clerks in the Treasury Department.
 Penalty for officers and clerks receiving compensation in matters before the department.

Officers interested in claims; penalty. Persons formerly in the departments not to prosecute claims in them within two years.
 Restrictions on payment for services. Presents to superior officers prohibited. Political contributions, immunity from official proscription.

President authorized to prescribe regulations.

SEC. 1753. The President is authorized to prescribe such regulations for the admission of persons into the civil service of the United States as may best promote the efficiency thereof, and ascertain the fitness of each candidate in respect to age, health, character, knowledge, and ability for the branch of service into which he seeks to enter; and for this purpose he may employ suitable persons to conduct such inquiries, and may prescribe their duties, and establish regulations for the conduct of persons who may receive appointments in the civil service.

In section 7 of the civil-service act it is provided that nothing contained in the act shall be construed to take from the President any authority not inconsistent with the same conferred by section 1753.

Preference of persons disabled in military or naval service.

SEC. 1754. Persons honorably discharged from the military or naval service by reason of disability resulting from wounds or sickness incurred in the line of duty, shall be preferred for appointments to civil offices, provided they are found to possess the business capacity necessary for the proper discharge of the duties of such offices.

Not repealed by the civil-service act. Section 7, act January 16, 1883 (22 Stat., 403).

17 Op. Atty. Gen., 194; 27 Op. Atty. Gen., 490, July 28, 1909; *Ketm v. U. S.*, 117 U. S., 290, affirming 33 Ct. Cls., 174.

Executive order, preference of veterans. (Int. Rev. Clr. No. 644; T. D. 681.)

The matter of capability and personal fitness is a matter of judgment for the appointing power. (19 Op. Atty. Gen., 318.)

Transfer of duties and preference of soldiers' and sailors' widows.

SEC. 3. [*Act of August 15, 1876 (19 Stat., 169).*] That whenever, in the judgment of the head of any department, the duties assigned to a clerk of one class can be as well performed by a clerk of a lower class or by a female clerk, it shall be lawful for him to diminish the number of clerks of the higher grade and increase the number of the clerks of the lower grade within the limit of the total appropriation for such clerical service: *Provided*, That in making any reduction of force in any of the executive departments, the head of such department shall retain those persons who may be equally qualified who have been honorably discharged from the military or naval service of the United States, and the widows and orphans of deceased soldiers and sailors.

Wheelock v. United States (46 Ct. Cls., 1).

Removals and reductions.

SEC. 6. [*Act of August 24, 1912 (37 Stat., 555).*] That no person in the classified civil service of the United States shall be removed therefrom except for such cause as will promote the efficiency of said service and for reasons given in writing, and the person whose removal is sought shall have notice of the same and of any charges preferred against him, and be furnished with a copy thereof, and also be allowed a reasonable time for personally answering the same in writing; and affidavits in support thereof; but no examination of witnesses nor any trial or hearing shall be required except in the discretion of the officer making the removal; and copies of charges, notice of hearing, answer, reasons for removal, and of the order of the removal shall be made a part of the records of the proper department or office, as shall also the reasons for reduction in rank or compensation; and copies of the same shall be furnished to the person affected upon request, and the Civil Service Commission also shall, upon request, be furnished copies of the same: * * * The right of persons employed in the civil service of the United States, either individually or collectively, to petition Congress, or any Member thereof, or to furnish information to either House of Congress, or to any committee or member thereof, shall not be denied or interfered with.

Civil service rules in regard to removals in the classified service.
(Executive order Dept. Cir. No. 34, August 5, 1914.)

Efficiency ratings.

SEC. 4. [*Act of August 23, 1912 (37 Stat., 413).*] The Civil Service Commission shall, subject to the approval of the President, establish a system of efficiency ratings for the classified service in the several executive departments in the District of Columbia based upon records kept in each department and independent establishment with such frequency as to make them as nearly as possible records of fact. Such system shall provide a minimum rating of efficiency which must be attained by an employee before he may be promoted; it shall also provide a rating below which no employee may fall without being demoted; it shall further provide for a rating below which no employee may fall without being dismissed for inefficiency. All promotions, demotions, or dismissals shall be governed by provisions of the civil-service rules. Copies of all records of efficiency shall be furnished by the departments and independent establishments to the Civil Service Commission for record in accordance with the provisions of this section: *Provided*, That in the event of reductions being made in the force in any of the executive departments no honorably discharged soldier or sailor whose record in said department is rated good shall be discharged or dropped or reduced in rank or salary.

Any person knowingly violating the provisions of this section shall be summarily removed from office, and may also upon conviction thereof be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year.

Act of February 28, 1916 (39 Stat., 15), in part provides: "That hereafter the Division of Efficiency of the Civil Service Commission shall be an independent establishment and shall be known as the Bureau of Efficiency: * * * And provided further, That the duties relating to efficiency ratings imposed upon the Civil Service Commission by section

4 of the legislative, executive, and judicial appropriation act approved August 23, 1912, and the duty of investigating the administrative needs of the service relating to personnel in the several executive departments and independent establishments, imposed on the Civil Service Commission by the legislative, executive, and judicial appropriation act approved March 4, 1913, are transferred to the Bureau of Efficiency."

Employees to be paid from specific appropriations only—Civil officers, clerks, etc., elsewhere employed not to be detailed for duty in the District of Columbia.

SEC. 4. [*Act of August 5, 1882 (22 Stat., 255).*] That no civil officer, clerk, draughtsman, copyist, messenger, assistant messenger, mechanic, watchman, laborer, or other employee shall after the first day of October next be employed in any of the executive departments, or subordinate bureaus or offices thereof at the seat of government, except only at such rates and in such numbers, respectively, as may be specifically appropriated for by Congress for such clerical and other personal services for each fiscal year; and no civil officer, clerk, draughtsman, copyist, messenger, assistant messenger, mechanic, watchman, laborer or other employee shall hereafter be employed at the seat of government in any executive department or subordinate bureau or office thereof, or be paid from any appropriation made for contingent expenses, or for any specific or general purpose, unless such employment is authorized and payment therefor specifically provided in the law granting the appropriation, and then only for services actually rendered in connection with and for the purposes of the appropriation from which payment is made, and at the rate of compensation usual and proper for such services, and after the first day of October next, section one hundred and seventy-two of the Revised Statutes, and all other laws and parts of laws, inconsistent with the provisions of this act, and all laws and parts of laws authorizing the employment of officers, clerks, draughtsmen, copyists, messengers, assistant messengers, mechanics, watchmen, laborers or other employees at a different rate of pay or in excess of the numbers authorized by appropriations made by Congress, be, and they are hereby, repealed; and thereafter all details of civil officers, clerks, or other subordinate employees from places outside of the District of Columbia for duty within the District of Columbia, except temporary details for duty connected with their respective offices, be, and are hereby, prohibited; and thereafter all moneys accruing from lapsed salaries or from unused appropriations for salaries, shall be covered into the Treasury: *Provided*, That the sums herein specifically appropriated for clerical or other force heretofore paid for out of general or specific appropriations may be used by the several heads of departments to pay such force until the said several heads of departments shall have adjusted the said force in accordance with the provisions of this act; and such adjustment shall be effected before October first, eighteen hundred and eighty-two. And in making such adjustment the employees herein provided for shall, as far as may be consistent with the interests of the service, be apportioned among the several States and Territories according to population: *Provided further*, That any person performing duty in any capacity as officer, clerk, or otherwise in any department at the date of the passage of this act, who has heretofore been paid from any appropriation made for contingent expenses or for any con-

tingent or general purpose, and whose office or place is specifically provided for herein, under the direction of the head of that department may be continued in such office, clerkship, or employment without a new appointment thereto, but shall be charged to the quotas of the several States and Territories from which they are respectively appointed and nothing herein shall be construed to repeal or modify section one hundred and sixty-six of the Revised Statutes of the United States.

It is provided in the same act (22 Stat., 230) that nothing in this section shall be construed to prevent the Commissioner of Internal Revenue from detailing one revenue agent for duty in his office.

Section 166, R. S., amended by section 3, act of May 23, 1896 (29 Stat., 179), allowing temporary detail of clerks.

Clerks can not be detailed to examine collectors' offices. (Collins's case, 3 Lawrence Dec., 241; 29 Int. Rev. Rec., 43.)

When Congress appropriates a sum "in full compensation" of the salary of a public officer, the incumbent can not recover an additional sum in the Court of Claims, notwithstanding a prior statute fixes the salary at a larger amount than the sum so appropriated. (United States v. Fisher, 109 U. S., 143.)

SEC 5. [*Act of August 22, 1912 (37 Stat., 414).*] That any person violating section four of the legislative, executive, and judicial appropriation Act approved August fifth, eighteen hundred and eighty-two (Statutes at Large, volume twenty-two, page two hundred and fifty-five), shall be summarily removed from office, and may also upon conviction thereof be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year.

Transfers and details.

SEC. 5. [*Act of June 22, 1906 (34 Stat., 389, 449).*] It shall not be lawful hereafter for any clerk or other employee in the classified service in any of the Executive Departments to be transferred from one Department to another Department until such clerk or other employee shall have served for a term of three years in the Department from which he desires to be transferred.

27 Op. Atty. Gen., 421.

Section 3, act of August 23, 1912 (37 Stat., 413), prohibits the transfer of any person from a position having a specific salary provided by statute to any position with greater compensation which has been created under a lump sum appropriation. (19 Compt. Dec., 184.) Section 4, act of March 4, 1913 (37 Stat., 790), provides to the same effect.

The urgent deficiency appropriation act, approved October 6, 1917 (40 Stat., 383), contains the following provision:

"That section five of the act of June twenty-second, nineteen hundred and six, prohibiting the transfer of employees from one executive department to another, shall apply with equal force and effect to the transfer of employees from executive departments to independent establishments and vice versa and to the transfer of employees from one independent establishment to another: *Provided*, That the United States Shipping Board Emergency Fleet Corporation shall be considered a Government establishment for the purposes of this section."

SEC. 6. [*Act of June 22, 1906 (34 Stat., 389, 449).*] Hereafter it shall be unlawful to detail civil officers, clerks, or other subordinate employees who are authorized or employed under or paid from appropriations made for the military or naval establishments, or any

other branch of the public service outside of the District of Columbia, except those officers and employees whose details are now specially provided by law, for duty in any bureau, office, or other division of any Executive Department in the District of Columbia, except temporary details for duty connected with their respective offices.

The provisions of this act with regard to transfer of clerks and employees are not applicable to the Philippine Commission or to the Isthmian Canal Commission. (26 Op. Atty. Gen., 209.)

Details of employees. (Dept. Cir. No. 7, January 10, 1913.)

SEC. 5. [*Act of July 3, 1918 (40 Stat., 814).*] That in expending appropriations made in this Act persons in the classified service at Washington, District of Columbia, shall not be detailed for service outside of the District of Columbia except for or in connection with work pertaining directly to the service at the seat of government of the department or other Government establishment from which the detail is made: *Provided*, That nothing in this section shall be deemed to apply to the investigation of any matter or the preparation, prosecution, or defense of any suit by the Department of Justice.

Similar provision in act of March 3, 1917 (39 Stat., 1070).

SEC. 6. [*Act of October 6, 1917 (40 Stat., 345).*] That section five of the act of June twenty-second, nineteen hundred and six, prohibiting the transfer of employees from one executive department to another, shall apply with equal force and effect to the transfer of employees from executive departments to independent establishments and vice versa and to the transfer of employees from one independent establishment to another: *Provided*, That the United States Shipping Board Emergency Fleet Corporation shall be considered a Government establishment for the purposes of this section.

Section 5, act of June 22, 1906, page 696.

SEC. 7. [*Act of October 6, 1917 (40 Stat., 345).*] That no civil employee in any of the executive departments or other Government establishments, or who has been employed therein within the period of one year next preceding his proposed employment in any other executive department or other Government establishment, shall be employed hereafter and paid from a lump-sum appropriation in any other executive department or other Government establishment at an increased rate of compensation. And no civil employee in any of the executive departments or other Government establishments or who has been employed therein within the period of one year next preceding his proposed employment in any other executive department or other Government establishment and who may be employed in another executive department or other Government establishment shall be granted an increase in compensation within the period of one year following such reemployment: *Provided*, That the United States Shipping Board Emergency Fleet Corporation shall be considered a Government establishment for the purposes of this section: *Provided further*, That this section shall not be construed to repeal section five of the act of June twenty-second, nineteen hundred and six, which prohibits the transfer of employees from one department to another.

Lump-sum appropriations.

SEC. 4. [*Act of March 4, 1913 (37 Stat., 739).*] That section seven of the general deficiency appropriation act approved August twenty-sixth, nineteen hundred and twelve, is amended to read as follows:

"SEC. 7. That no part of any money contained herein or hereafter appropriated in lump sum shall be available for the payment of personal services at a rate of compensation in excess of that paid for the same or similar services during the preceding fiscal year; nor shall any person employed at a specific salary be hereafter transferred and hereafter paid from a lump-sum appropriation a rate of compensation greater than such specific salary, and the heads of departments shall cause this provision to be enforced: *Provided*, That this section shall not apply to mechanics, artisans, their helpers and assistants, laborers, or any other employees whose duties are of similar character and required in carrying on the various manufacturing or constructing operations of the Government."

SEC. 12. [*Act of August 1, 1914 (38 Stat., 680).*] That it shall not be lawful hereafter to pay to any person, employed in the service of the United States under any general or lump-sum appropriation, any sum additional to the regular compensation received for or attached to any employment held prior to an appointment or designation as acting for or instead of an occupant of any other office or employment. This provision shall not be construed as prohibiting regular and permanent appointments by promotion from lower to higher grades of employment.

Transfers from specific salaries to lump-sum appropriation roll at increased compensation. (19 Comp. Dec., 789.)

The Secretary of the Treasury is authorized to use for, and in connection with, the enforcement of the laws relating to the Treasury Department and the several branches of the public service under its control, not exceeding at any one time four persons paid from the appropriation for the collection of customs, four persons paid from the appropriation for salaries and expenses of internal-revenue agents or from the appropriation for the foregoing purpose, and four persons paid from the appropriation for suppressing counterfeiting and other crimes, but not exceeding six persons so detailed shall be employed at any one time hereunder: *Provided*, That nothing herein contained shall be construed to deprive the Secretary of the Treasury from making any detail now otherwise authorized by existing law. Extract from sundry civil appropriation act for 1919. Act of July 1, 1918 (40 Stat., 642.)

No salary for office not authorized.

SEC. 1760. No money shall be paid from the Treasury to any person acting or assuming to act as an officer, civil, military, or naval, as salary in any office when the office is not authorized by some previously existing law, unless such office is subsequently sanctioned by law.

Accepting voluntary service prohibited.

[*Act of May 1, 1884 (23 Stat., 17).*] * * * And hereafter no Department or officer of the United States shall accept voluntary service for the Government, or employ personal service in excess of that authorized by law, except in cases of sudden emergency involving the loss of human life or the destruction of property.

Reproduced in section 3679, amended, p. 687.

Voluntary service. (30 Op. Atty. Gen., 51.)

Public holidays.

SEC. 993. [*Revised Statutes relating to District of Columbia.*] The following days, namely: The first day of January, commonly called New Year's Day; the fourth day of July; the twenty-fifth day of December, commonly called Christmas Day; and any day appointed or recommended by the President of the United States as a day of public fast or thanksgiving, shall be holidays within the District.

* * * * *

The 22d of February made a holiday. (Act of January 31, 1879; 20 Stat., 277.)

Inauguration Day made a holiday. (Act of June 18, 1888; 25 Stat., 185.)

"Decoration Day" made a holiday. (Act of August 1, 1888; 25 Stat., 353.)

The first Monday in September (labor's holiday) made a holiday. (Act of June 28, 1894; 28 Stat., 96.)

Legal holidays falling on Sunday the next day shall be a holiday. (Act of December 20, 1881; 22 Stat., 1.)

As to ministerial acts performed on Sunday and holidays, see *In re Worthington* (23 Int. Rev. Rec., 233).

Holidays; hours of labor in executive departments. (25 Op. Atty. Gen., 40.)

The joint resolution of January 6, 1885 (23 Stat., 516) provides that per diem employees of the Government on duty at Washington, or elsewhere in the United States, shall be allowed the following holidays, to wit: The first day of January, the twenty-second day of February, the fourth day of July, the twenty-fifth day of December, and such days as may be designated by the President as days for national thanksgiving, and shall receive the same pay as on other days.

The joint resolution of February 23, 1887 (24 Stat., 644) provides that per diem employees of the Government, on duty at Washington or elsewhere in the United States, shall be allowed "Memorial" or "Decoration Day," and the fourth of July, as holidays, and shall receive the same pay as on other days. (11 Comp. Dec., 393.)

Pay of per diem employees Labor Day. (Dept. Cir. No. 49, August 31, 1910; 22 Comp. Dec., 404.)

Double salaries—Compensation for extra services—Extra allowances—Perquisites, etc.—
Prohibition.

SEC. 1763. No person who holds an office, the salary or annual compensation attached to which amounts to the sum of two thousand five hundred dollars, shall receive compensation for discharging the duties of any other office, unless expressly authorized by law.

Talbot's case (10 Ct. Cls., 426).

The statutes do not prohibit a person from drawing the salaries of two distinct offices which he legitimately holds. (5 Op. Atty. Gen., 765; 6 Id., 80; 9 Id., 507; 10 Id., 446; 15 Id., 306; 16 Id., 7; *Collins v. United States*, 15 Ct. Cls., 22.)

In construing statutes restraining the Executive from giving dual or extra compensation, courts have aimed to carry out the legislative intent by giving them sufficient flexibility not to injure the public service and sufficient rigidity to prevent Executive abuse. (*Landram v. United States*, 16 Ct. Cls., 74; 27 Int. Rev. Rec., 80.)

No person who holds an office the salary or annual compensation attached to which amounts to the sum of \$2,500 shall be appointed to or hold any other office to which compensation is attached unless heretofore or hereafter specially authorized thereto by law, but this shall not apply to retired officers of the Army or Navy. (See sec. 2, act of July 31, 1894; 28 Stat., 205; 16 Comp. Dec., 823.)

Holding State offices by officers or employees. (18 Op. Atty. Gen., 3.)

When combined amount of salaries exceeds the sum of \$2,000 per annum. Section 6, act of May 10, 1916. (39 Stat., 120.)

Compensation may be paid officers holding two compatible positions. (Op. Solic. of Treasury, Feb. 1, 1887.)

SEC. 1764. No allowance or compensation shall be made to any officer or clerk, by reason of the discharge of duties which belong to any other officer or clerk in the same or any other Department; and no allowance or compensation shall be made for any extra services whatever, which any officer or clerk may be required to perform, unless expressly authorized by law.

Section 170 prohibits payment to department clerks for extra services unless authorized by law.

An agreement by the Secretary of the Interior to pay a clerk in his department for services rendered to the Government by labors abroad, the clerk still holding his place and drawing his pay as clerk in the Interior, held void. (*Stansbury v. United States*, 8 Wall., 33.)

See also disbursing clerk's case (5 Lawrence Dec., 401); Wade's case (27 Int. Rev. Rec., 16); Herndon's claim (26 Id., 314).

SEC. 1765. No officer in any branch of the public service, or any other person whose salary, pay, or emoluments are fixed by law or regulations, shall receive any additional pay, extra allowance, or compensation, in any form whatever, for the disbursement of public money, or for any other service or duty whatever, unless the same is authorized by law, and the appropriation therefor explicitly states that it is for such additional pay, extra allowance, or compensation.

The construction which has been given to these statutes (secs. 1763, 1764, 1765) is that the intent and effect of them is to forbid officers holding one office to receive compensation for the discharge of duties belonging to another, or additional pay, extra allowance, or compensation for such other services or duties where they hold the commission of but a single office, and by virtue of that office, or in addition to the duties of that office, have assigned to them the duties of another office. According to the decisions, however, if an officer holds two distinct commissions, and thus two distinct offices, he may receive the salary for each. *Converse v. United States*, leading case on questions of additional compensation (21 Howard, 463; 15 Op. Atty. Gen., 308, 608). *United States v. Brindle* (110 U. S., 689). *Hartson v. United States* (21 Ct. Cls., 451; 32 Int. Rev. Rec., 238). In this case the Supreme Court went further than it had gone in any previous decision and held that where a person holds two separate employments, though not technically offices, he is entitled to the compensation of both. *Saunders v. United States* (120 U. S., 126; 33 Int. Rev. Rec., 63); *Collins case* (15 Ct. Cls., 22); *Whitaker v. United States* (27 Ct. Cls., 524; 43 Int. Rev. Rec., 193).

Deputy marshal not an "officer," and can be paid for services in assisting the collector in destroying illicit stills. (*Brown's case*, 28 Int. Rev. Rec., 19.)

A deputy marshal has been held to be an officer of the United States. (29 Op. Atty. Gen., 597.)

Deputy collector not an "officer" within the meaning of section 1765. (*Landram v. United States*, 16 Ct. Cls., 74; 27 Int. Rev. Rec., 80.)

Payment of double compensation to a person holding two appointments at the same time. (10 Comp. Dec., 726; see also 11 Id., 392.)

SEC. 3. [*Act of March 20, 1874* (18 Stat., 109; 1 Supp. R. S., 47).] That no civil officer of the Government shall hereafter receive any compensation or perquisites, directly or indirectly, from the Treasury or property of the United States beyond his salary or compensation allowed by law:

Provided, That this shall not be construed to prevent the employment and payment by the Department of Justice of district attorneys

as now allowed by law for the performance of services not covered by their salaries or fees.

This act relates only to "civil officers." It does not extend to the clerk of a supervisor of internal revenue. (*Hedrick v. United States*, 16 Ct. Cla., 88.)

Double salaries restricted.

SEC. 6. [*Act of May 10, 1916 (39 Stat. 190).*] That unless otherwise specially authorized by law no money appropriated by this or any other act shall be available for payment to any person receiving more than one salary when the combined amount of said salaries exceeds the sum of \$2,000 per annum, but this shall not apply to retired officers of the Army, Navy, or Marine Corps, whenever they may be appointed or elected to public office or whenever the President shall appoint them to office by and with the advice and consent of the Senate or to officers and enlisted men of the Organized Militia and Naval Militia in the several States, Territories, and the District of Columbia.

Payment of expenses of clerks, officers, etc., sent away as witnesses.

SEC. 850. When any clerk or other officer of the United States is sent away from his place of business as a witness for the Government, his necessary expenses, stated in items and sworn to, in going, returning, and attendance on the court, shall be audited and paid; but no mileage, or other compensation in addition to his salary, shall in any case be allowed.

Expenses can be taxed in the bill of costs for the travel or attendance of Government clerks. (*United States v. Sanborn*, 135 U. S., 271; 36 Int. Rev. Rec., 142.)

Deputy collectors are included under the words "other officer of the United States" according to the ruling of the department.

Expenses of deputy collectors incurred in attendance upon preliminary examination before United States Commissioners in obedience to subpoenas. (T. D., 1640, XVI Comp. Dec., 838.)

The word "officer" in this section is to receive a liberal construction. (17 Comp. Dec., 584.)

Expenses of collectors and deputy collectors which attending a Federal court as witness in response to subpoenas incurred, after July 1, 1908, payable from appropriation for "Fees of witnesses." (20 Comp. Dec., 195; T. D. 1363.)

Instructions, Department of Justice, June 1, 1916, to United States marshals, attorneys, etc., page 107.

Expenses incurred by departmental clerk in obeying subpoena. (XVI Comp. Dec., 672.)

No mileage beyond travelling expenses allowed.

[Extract from act of June 16, 1874 (18 Stat., 72).]

* * * *Provided*, That only actual traveling expenses shall be allowed to any person holding employment or appointment under the United States, and all allowances for mileages and transportation in excess of the amount actually paid are hereby declared illegal; and no credit shall be allowed to any of the disbursing officers of the United States for payment or allowances in violation of this provision. * * *

Certain business and emoluments forbidden to clerks in the Treasury Department.

SEC. 244. Every clerk employed in the Treasury Department who carries on any trade or business in the funds or debts of the United States, or of any State, or in any kind of public property, or who takes or applies to his own use any emolument or gain for negotiating or transacting any business in the Department, shall be deemed guilty of a misdemeanor, and punished by a fine of five hundred dollars and removal from office.

Sections 1788, 1789; section 103, Criminal Code, act of March 4, 1909, page 671.

Officers and clerks receiving compensation in matters before the departments; penalty.

[§1782.] SEC. 113. [*Act of March 4, 1909, Criminal Code (35 Stat., 1109).*] Whoever, being elected or appointed a Senator, Member of or Delegate to Congress, or a Resident Commissioner, shall, after his election or appointment and either before or after he has qualified, and during his continuance in office, or being head of a department, or other officer or clerk in the employ of the United States, shall, directly or indirectly, receive, or agree to receive, any compensation whatever for any services rendered or to be rendered to any person, either by himself or another, in relation to any proceeding, contract, claim, controversy, charge, accusation, arrest, or other matter or thing in which the United States is a party or directly or indirectly interested, before any department, court-martial, bureau, officer, or any civil, military, or naval commission whatever, shall be fined not more than ten thousand dollars and imprisoned not more than two years; and shall, moreover, thereafter be incapable of holding any office of honor, trust, or profit under the Government of the United States.

Contracts with the Government by executive officers. (14 Op. Atty. Gen., 482; 24 Op. Atty. Gen., 557.)

Prohibition against officers taking money or other valuable consideration for procuring places or contracts. Sec. 1781 superseded by sec. 112, act of March 4, 1909 (Criminal Code).

Officers and employees of Internal Revenue Bureau prohibited from acting as agents for surety companies. (T. D. 21025.)

Officers prosecuting claims against the United States; penalty.

[§5498.] SEC. 109. [*Act of March 4, 1909, Criminal Code (35 Stat., 1107).*] Whoever, being an officer of the United States, or a person holding any place of trust or profit, or discharging any official function under, or in connection with, any Executive Department of the Government of the United States, or under the Senate or House of Representatives of the United States, shall act as an agent or attorney for prosecuting any claim against the United States, or in any manner, or by any means, otherwise than in discharge of his proper official duties, shall aid or assist in the prosecution or support of any such claim, or receive any gratuity, or any share of or interest in any claim from any claimant against the United States, with intent to aid or assist, or in consideration of having aided or assisted, in the prosecution of such claim, shall be fined not more than five thousand dollars, or imprisoned not more than one year, or both.

- No general provision in statutes forbidding executive officers to contract directly with Government as principals in matters separate from performance of official duties. (14 Op. Atty. Gen., 482.)

Member of Congress is an officer within the meaning of section 32 of the Criminal Code. (*Lamar v. United States*, 241 U. S., 103.)

A Member of Congress is not an officer. (17 Op. Atty. Gen., 420; *United States v. Burton*, 131 Fed., 552; *Burton v. United States*, 196 U. S., 283; see 202 U. S., 344.)

Persons formerly in the Departments not to prosecute claims in them within two years.

SEC. 190. It shall not be lawful for any person appointed after the first day of June, one thousand eight hundred and seventy-two, as an officer, clerk, or employé in any of the Departments, to act as counsel, attorney, or agent for prosecuting any claim against the United States which was pending in either of said Departments while he was such officer, clerk, or employé, nor in any manner, nor by any means, to aid in the prosecution of any such claim, within two years next after he shall have ceased to be such officer, clerk, or employé.

See 20 Op. Atty. Gen., 693.

Restriction on payment for services; oath to be required.

SEC. 1790. No officer or clerk whose duty it is to make payments on account of the salary or wages of any officer or person employed in connection with the customs or the internal-revenue service, shall make any payment to any officer or person so employed on account of services rendered, or of salary, unless such officer or person so to be paid has made and subscribed an oath that, during the period for which he is to receive pay, neither he, nor any member of his family, has received, either personally or by the intervention of another party, any money or compensation of any description whatever, nor any promises for the same, either directly or indirectly, for services rendered or to be rendered, or acts performed or to be performed, in connection with the customs or internal revenue; or has purchased, for like services or acts, from any importer, if affiant is connected with the customs, or manufacturer, if affiant is connected with the internal-revenue service, consignee, agent, or custom-house broker, or other person whomsoever, any merchandise, at less than regular retail market prices therefor.

Prohibition of contributions, presents, etc., to official superiors.

SEC. 1784. No officer, clerk, or employé in the United States Government employ shall at any time solicit contributions from other officers, clerks, or employés in the Government service for a gift or present to those in a superior official position; nor shall any such officials or clerical superiors receive any gift or present offered or presented to them as a contribution from persons in Government employ receiving a less salary than themselves; nor shall any officer or clerk make any donation as a gift or present to any official superior. Every person who violates this section shall be summarily discharged from the Government employ.

Collections from officers and employees in the field service for personal gifts prohibited. (T. D. 2862.)

Penalty for officers and employees giving to or receiving from other officers money, etc., for political purposes.

SEC. 6. [*Act of August 15, 1876 (19 Stat., 169).*] That all executive officers or employees of the United States not appointed by the Pres-

ident, with the advice and consent of the Senate, are prohibited from requesting, giving to, or receiving from, any other officer or employee of the Government any money or property or other thing of value for political purposes; and any such officer or employee who shall offend against the provisions of this section shall be at once discharged from the service of the United States; and he shall also be deemed guilty of a misdemeanor, and on conviction thereof shall be fined in a sum not exceeding five hundred dollars.

This act not unconstitutional. (United States v. Curtis, 28 Int. Rev. Rec., 273; Ex parte Curtis, 106 U. S., 371; 29 Int. Rev. Rec., 18.)

Members of Congress not included. (17 Op. Atty. Gen., 419.)

The civil-service act (act of January 16, 1883; 22 Stat., 403) makes political assessments of Federal officers, clerks, and employees a misdemeanor. The following are the provisions of the law on the subject:

Sec. 2, paragraph 2, clause 5. That no person in the public service is for that reason under any obligation to contribute to any political fund, or to render any political service, and that he will not be removed or otherwise prejudiced for refusing to do so.

Sixth. That no person in said service has any right to use his official authority or influence to coerce the political action of any person or body.

Sections 118, 119, 120, 121, 122, of the act of March 4, 1909 (35 Stat., 1088). Criminal Code, reproducing sections 11, 12, 13, 14 and 15 of the civil-service act.

Official interference in political movements. (Order of President Cleveland, Dept. Cir. No. 117, September 1, 1886.)

Employees in the competitive classified service shall take no active part in political management or in political campaigns. (Dept. Circular No. 21, March 31, 1908.)

Warning against political assessments and partisan activity of office holders. (Dept. Cir. No. 60, October 25, 1910, T. D. 31010; Dept. Cir. No. 64, September 29, 1916.)

Order of Commissioner Yerkes, dated December 9, 1905, addressed to collectors of internal revenue:

"So far as the classified service is concerned, employees must absolutely refrain from political activity."

Political contributions. (24 Op. Atty. Gen., 133.)

CHAPTER 6.

LEGACIES AND DISTRIBUTIVE SHARES OF PERSONAL PROPERTY.

[Sections 29 and 30, act of June 13, 1898 (30 Stat., 464).]

Lien on testator's property.

Notice by executor.

Payment.

Schedules, etc.

Receipts.

Assessments, etc.

Legal proceedings to recover tax.

Title, etc.

Penalties.

Refunds.

Contingent beneficial interests not vested July 1, 1902.

Extension of time for repayment of taxes erroneously collected.

Acceptance of Liberty bonds in payment of tax.

The tax on legacies (sec. 29) was repealed by section 7 of the act of April 12, 1902 (32 Stat., 96), taking effect July 1, 1902.

No legacy tax accrued where the testator died prior to the act of June 13, 1898. (Penn. Co. for Insurance on Lives and Granting Annuities v. McClain, 105 Fed., 367; T. D. 343.)

Legacy tax constitutional. (Knowlton et al. v. Moore, collector, 178 U. S., 41; T. D. 129.)

(Vanderbilt v. Eldman, 196 U. S., 480; T. D. 868; Decision in United States circuit court, southern district of N. Y., 121 Fed., 590; T. D., 618.)

Saving clause.

SEC. 8. [*Act of April 12, 1902 (32 Stat., 96).*] That all taxes or duties imposed by section twenty-nine of the Act of June thirteenth, eighteen hundred and ninety-eight, and amendments thereof, prior to the taking effect of this Act, shall be subject, as to lien, charge, collection, and otherwise, to the provisions of section thirty of said Act of June thirteenth, eighteen hundred and ninety-eight, and amendments thereof, which are hereby continued in force, as follows:

"SEC. 30. That the tax or duty aforesaid shall be due and payable in one year after the death of the testator and shall be a lien and charge upon the property of every person who may die as aforesaid for twenty years, or until the same shall, within that period, be fully paid to and discharged by the United States; and every executor, administrator, or trustee having in charge or trust any legacy or distributive share, as aforesaid, shall give notice thereof, in writing, to the collector or deputy collector of the district where the deceased grantor or bargainer last resided within thirty days after he shall have taken charge of such trust, and every executor, administrator, or trustee, before payment and distribution to the legatees, or any parties entitled to beneficial interest therein, shall pay to the collector or deputy collector of the district of which the deceased person was a resident, or in which the property was located in case of non-residents, the amount of the duty or tax assessed upon such legacy or distributive share, and shall also make and render to the said collector or deputy collector a schedule, list, or statement, in duplicate, of the amount of such legacy or distributive share, together with the amount of duty which has accrued, or shall accrue, thereon, verified by his oath or affirmation, to be administered and certified thereon by some magistrate or officer having lawful power to administer such oaths, in such form and manner as may be prescribed by the Commissioner of Internal Revenue, which schedule, list, or statement shall contain the names of each and every person entitled to any beneficial interest therein, together with the clear value of such interest, the duplicate of which schedule, list, or statement shall be by him immediately delivered, and the tax thereon paid to such collector; and upon such payment and delivery of such schedule, list, or statement said collector or deputy collector shall grant to such person paying such duty or tax a receipt or receipts for the same in duplicate, which shall be prepared as hereinafter provided. Such receipt or receipts, duly signed and delivered by such collector or deputy collector, shall be sufficient evidence to entitle such executor, administrator, or trustee to be credited and allowed such payment by every tribunal which, by the laws of any State or Territory, is, or may be, empowered to decide upon and settle the accounts of executors and administrators. And in case such executor, administrator, or trustee shall refuse or neglect to pay the aforesaid duty or tax to the collector or deputy collector, as aforesaid, within the time hereinbefore provided, or shall neglect or refuse to deliver to said collector or deputy collector the duplicate of the schedule, list, or statement of such legacies, property, or personal estate, under oath, as aforesaid, or shall neglect or refuse to deliver the schedule, list, or statement of such legacies, property, or personal

estate, under oath, as aforesaid, or shall deliver to said collector or deputy collector a false schedule or statement of such legacies, property, or personal estate, or give the names and relationship of the persons entitled to beneficial interests therein untruly, or shall not truly and correctly set forth and state therein the clear value of such beneficial interest, or where no administration upon such property or personal estate shall have been granted or allowed under existing laws, the collector or deputy collector shall make out such lists and valuation as in other cases of neglect or refusal, and shall assess the duty thereon; and the collector shall commence appropriate proceedings before any court of the United States, in the name of the United States, against such person or persons as may have the actual or constructive custody or possession of such property or personal estate, or any part thereof, and shall subject such property or personal estate, or any portion of the same, to be sold upon the judgment or decree of such court, and from the proceeds of such sale the amount of such tax or duty, together with all costs and expenses of every description to be allowed by such court, shall be first paid, and the balance, if any, deposited according to the order of such court, to be paid under its direction to such person or persons as shall establish title to the same. The deed or deeds, or any proper conveyance of such property or personal estate, or any portion thereof, so sold under such judgment or decree, executed by the officer lawfully charged with carrying the same into effect, shall vest in the purchaser thereof all the title of the delinquent to the property or personal estate sold under and by virtue of such judgment or decree, and shall release every other portion of such property or personal estate from the lien or charge thereon created by this Act. And every person or persons who shall have in his possession, charge, or custody any record, file, or paper containing, or supposed to contain, any information concerning such property or personal estate, as aforesaid, passing from any person who may die, as aforesaid, shall exhibit the same at the request of the collector or deputy collector of the district, and to any law officer of the United States, in the performance of his duty under this Act, his deputy or agent, who may desire to examine the same. And if any such person, having in his possession, charge, or custody any such records, files, or papers, shall refuse or neglect to exhibit the same on request, as aforesaid, he shall forfeit and pay the sum of five hundred dollars: *Provided*, That in all legal controversies where such deed or title shall be the subject of judicial investigation, the recital in said deed shall be prima facie evidence of its truth, and that the requirements of the law had been complied with by the officers of the Government: *And provided further*, That in case of willful neglect, refusal, or false statement by such executor, administrator, or trustee, as aforesaid, he shall be liable to a penalty of not exceeding one thousand dollars, to be recovered with costs of suit. Any tax paid under the provisions of sections twenty-nine and thirty shall be deducted from the particular legacy or distributive share on account of which the same is charged."

Effect of the repealing act.—The war revenue act of June 13, 1898, as amended, provided for a tax on legacies to become due and payable in one year after the death of the testator, and to be a lien and charge on his property for 20 years.

Such provisions were repealed by the act of April 12, 1902, with a saving clause as to all taxes imposed thereby prior to July 1, 1902, when the repeal took effect.

The act of June 27, 1902, prohibited the further assessment or imposition of any tax under said act "upon or in respect of any contingent beneficial interest which shall not become absolutely vested in possession or enjoyment" prior to July 1, 1902, and required the refunding of taxes previously collected on any such interests. *Held*, that where a testator who died in December, 1901, bequeathed a share of his residuary estate in trust, the income to be paid to a son during his life, the life estate of the son in the income of the trust property became absolutely vested in enjoyment at once on the death of the testator, and subject to the tax; that the tax was "imposed" by the statute itself at the time of such vesting without reference to the time when it became due and payable or to any act of assessment by the internal-revenue officers, which was merely an administrative detail necessary to fix the amount but not affecting the time when the tax was imposed or became a lien. (*Westhus et al. v. Union Trust Co.*, 164 Fed., 795; 168 Fed., 617; petition for rehearing denied. *Contra*, *Lynch v. Union Trust Co.*, 164 Fed., 161.)

The fact that the testator dies within one year prior to the taking effect of the repealing act of April 12, 1902, does not relieve from taxation legacies otherwise taxable under sections 29 and 30 of the act of June 13, 1898, as amended by the act of March 2, 1901, being saved by the saving clause of the repealing act. (*Hertz v. Woodman*, 218 U. S., 205; *T. D.* 1636, overruling decision in *Eldman v. Tilghman*, 136 Fed., 141.)

In *Disston v. McClain*, collector (1906), it was held that an annuity passing as a legacy prior to repeal of the act, payable in quarterly installments out of the income of personal property during the life of the beneficiary was taxable, only as to so much of the income as was vested in the actual possession of the legatee prior to the 1st day of July, 1902, when the law was repealed. (147 Fed., 114, reversing 143 Fed., 191; *T. D.* 976.) A petition was filed in the United States Supreme Court for a writ of certiorari in this case, but the court refused to issue the writ. (207 U. S., 587.)

Receipt of Liberty bonds and Victory notes in payment of tax. (*T. Ds.* 2905, 2904, 2898, 2878, 2802.)

Legacy tax is not a debt of decedent's estate, and an action at law can not be maintained to recover same against executor or administrator in his representative capacity. Remedy is by action to enforce payment from property subject to tax against executor or other person having actual or constructive possession thereof. (*United States v. Fitts*, 197 Fed., 1107.)

The act of June 13, 1898, was copied from the act of 1864; Congress had in mind doubtless that the act of 1864 had received judicial and practical construction which would be binding or at least valuable in the interpretation of the act of 1898. (*Id.*)

Tax on legacies imposed by act of June 13, 1898, is an excise tax due to be paid by the executor. If he fails to pay or parts with possession before payment a proceeding may be brought against him or any person in possession to have tax made a lien on the property. Legatee not personally liable in assumpsit if property not sufficient to satisfy lien. (*United States v. Priest*, 210 Fed., 332.)

Certain Liberty bonds exempt from estate or inheritance taxes. (*T. D.* 2836.)

Legacies vested in enjoyment, though not in possession, at time 1898 act was repealed by act April 12, 1902, were taxable. (*Ward v. Sage*, 185 Fed., 7.)

Notwithstanding executors were not bound to pay legacies until more than a year after testator's death, the estate bequeathed vested absolutely in testator's children at date of his death prior to repeal of act of June 13, 1898, by act of April 12, 1902. (*Beer v. Moffatt*, 209 Fed., 779.)

Life estate vests at death of testator and is to be ascertained as of that date upon expectancy of life tenants according to mortality tables. Death

of life tenant before expiration of year allowed for payment of tax does not affect the rule. (*United States v. Farr's Ex'r.*, 193 Fed., 997.)

Tax does not apply to personal property of aliens or persons domiciled abroad. (*Eidman v. Martinez*, 184 U. S., 578; *Moore v. Ruckgaber*, 184 U. S., 593.)

Congress has power to tax transmission of property by legacy to municipal corporation. (*Snyder v. Bettman*, 190 U. S., 249.)

Tax upon legacies is valid even if such legacies are composed of Federal bonds. (*Murdock v. Ward*, 178 U. S., 139; *Sherman v. United States*, 178 U. S., 151.)

Liability for the tax attaches the moment the right of succession by death passes to the legatee or next of kin, and it is payable when the legatee becomes entitled to possession or right of possession. (*Hertz v. Woodman*, 218 U. S., 205; *T. D. 1636*. *Vanderbilt v. Eidman*, 196 U. S., 480; *T. D. 868*; *Title Guarantee & Trust Co. v. Ward*, 164 Fed., 459; 184 Fed., 447.)

Personal property includes leasehold interests in land. (*Baldwin v. Eidman*, 206 Fed., 428.)

Distinction between income and annuity. (*Peck v. Kimney*, 143 Fed., 76.)

Legacy to pay income while wife of H. not vested and not taxable. (*Muentzer v. Bliss*, 208 Fed., 140.)

Refund of tax on legacies and bequests for uses of a religious, charitable, or educational character; refund of tax on contingent beneficial interests, which had not become vested July 1, 1902—No tax to be assessed on contingent beneficial interests not vested July 1, 1902.

AN ACT To provide for refunding taxes paid upon legacies and bequests for uses of a religious, charitable, or educational character, for the encouragement of art, and so forth, under the act of June thirteenth, eighteen hundred and ninety-eight, and for other purposes, approved June 27, 1902. (32 Stat., 406.)

SEC. 1. That the Secretary of the Treasury, under appropriate rules and regulations to be prescribed by him, be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the corporations, associations, societies, or individuals as trustees or executors, such sums of money as have been paid by them as taxes upon bequests or legacies for uses of a religious, literary, charitable, or educational character, or for the encouragement of art, or legacies or bequests to societies for the prevention of cruelty to children, under the provisions of section twenty-nine of the Act entitled "An Act to provide ways and means to meet war expenditures, and for other purposes," approved June thirteenth, eighteen hundred and ninety-eight.

SEC. 2. * * *

SEC. 3. That in all cases where an executor, administrator, or trustee shall have paid, or shall hereafter pay, any tax upon any legacy or distributive share of personal property under the provisions of the act approved June thirteenth, eighteen hundred and ninety-eight, entitled "An Act to provide ways and means to meet war expenditures, and for other purposes," and amendments thereof, the Secretary of the Treasury be, and he is hereby, authorized and directed to refund, out of any money in the Treasury not otherwise appropriated, upon proper application being made to the Commissioner of Internal Revenue, under such rules and regulations as may be prescribed, so much of said tax as may have been collected on contingent beneficial interests which shall not have become vested prior to July first, nineteen hundred and two. And no tax shall hereafter be assessed or imposed under said Act approved June thirteenth, eighteen hundred and ninety-eight, upon or in respect

of any contingent beneficial interest which shall not become absolutely vested in possession or enjoyment prior to said July first, nineteen hundred and two.

* * * * *

Circular No. 627, relative to refunding legacy taxes as provided in the first paragraph; July 3, 1902. (T. D. 543.)

The act of June 27, 1902, relative to the refund of tax collected on contingent beneficial interests not vested prior to July 1, fixes no time within which the claim for refund must be filed with the collector.

If the two years' limit is applicable under section 3228, R. S., it must be two years from the passage of the act and not two years from payment of the tax. (*Thacher v. United States*, United States Circuit Court, District of Massachusetts, 149 Fed., 902; 26 Op. Atty. Gen., 194.)

Attorney General's opinion as to vested interests, August 1, 1902. (T. D. 570, modifying Circular No. 630, T. D. 552; 24 Op. Atty. Gen., 98.)

The act of June 27, 1902, made the 1898 tax inapplicable to an estate not probated before July 1, 1902. (*Hunnewell v. Gill*, 257 Fed., 857.)

Conditions precedent to suit to recover tax illegally collected, under sections 3226 and 3228, not applicable as to inheritance taxes imposed by act of June 13, 1898, if taxpayer has complied with section 3 of act of June 13, 1898, and section 2 of act of July 27, 1912, and presented claim for refund; but provision for repayment under latter act not satisfied where claim has been filed by attorney for trustee or for administrator de bonis non of decedent, the original executrix having paid the tax without protest on behalf of the cestui que trust. (*Rand v. United States*, 249 U. S., 503; T. D. 2886.)

Right to possession or enjoyment of an estate for life or years was properly taxed as a legal unit in its entirety. The present right or interest in such estates is in no sense "contingent," and taxes thereon are not refundable under this act. (*United States v. Fidelity Trust Co.*, 222 U. S., 158; T. D. 1741.)

No tax was assessable on legacies which had not become absolutely vested in possession or enjoyment prior to July 1, 1902; where testator died May 24, 1902, and under State law payment of legacies could not be demanded until the expiration of a year, legacy taxes collected before that time were collected on contingent interests not absolutely vested and should be refunded. (*McCoach v. Pratt*, 236 U. S., 562; T. D. 2171.)

Where judgment to recover succession tax collected under act of June 13, 1898, was for only part of claim, this judgment not a bar to suit against United States in Court of Claims to recover unpaid residue; claim for refund filed in August, 1903, to recover such succession tax is sufficient; claim made September 7, 1916, for refund of taxes collected under act of June 13, 1898, claim rejected October 3, 1916, and suit brought in Court of Claims January 23, 1917, is not barred by six-year limitation period allowed by section 1069, R. S. (*Sage v. United States*, 250 U. S., 83; T. D. 2885.)

A legacy in trust where trustee is to pay net income to legatee for term of years creates a vested interest in the beneficiary in such income for the term, which legacy, if it became vested before July 1, 1902, and amounted to \$10,000 is assessable under act of June 13, 1898, and amendments thereof. (*Muenter v. Union Trust Co.*, 195 Fed., 480.)

Where trust continued 11 years, during which period beneficiaries received annual income and corpus did not vest prior to July 1, 1902, only value of annual income is taxable, and act of June 27, 1902, is available to trustee who paid tax on entire corpus. (*Rosenfeld v. Scott*, 232 Fed., 509.)

United States District Court has jurisdiction of suits against the United States based upon act of July 27, 1912; this act not limited to refund of legacy taxes assessed under section 29 of war-revenue act. (*United States v. Hvoslef*, 237 U. S., 1; T. D. 2186.)

Where testator died in December, 1901, life estate became vested in enjoyment at once on death of testator and subject to the tax. (*Westhus v. Union Trust Co.*, 164 Fed., 795.)

No legacy tax accrued under act of June 13, 1898, where the testator died prior to that date. (*Penn. Co. for Insurance on Lives and Granting Annuities v. McClain*, 105 Fed., 387; T. D. 343.)

Legacy taxes paid on contingent interest, which did not become vested prior to July 1, 1902, are required to be refunded by act of June 27, 1902, irrespective of their legality or whether they were voluntarily paid or not; and a failure to present the claim within the time limited by such section will not bar an action thereon. (*Thacher v. United States*, 149 Fed., 902; 26 Op. Atty. Gen., 194.)

The period of limitation in section 3228, R. S., does not apply to the refunding act of June 27, 1902; the act is not a part of the revenue system; no protest required. (*United States v. Shipley*, 197 Fed., 265.)

When beneficial interests become vested. (*United States v. Jones*, 236 U. S., 106; *T. D. 2138. McCoach v. Pratt*, 236 U. S., 562; *T. D. 2171.*)

[Act of July 27, 1912 (37 Stat., 240).]

AN ACT Extending the time for the repayment of certain war-revenue taxes erroneously collected.

Be it enacted, etc., That all claims for the refunding of any internal tax alleged to have been erroneously or illegally assessed or collected under the provisions of section twenty-nine of the act of Congress approved June thirteenth, eighteen hundred and ninety-eight, known as the war-revenue tax, or of any sums alleged to have been excessive, or in any manner wrongfully collected under the provisions of said act may be presented to the Commissioner of Internal Revenue on or before the first day of January, nineteen hundred and fourteen, and not thereafter.

SEC. 2. That the Secretary of the Treasury is hereby authorized and directed to pay, out of any moneys of the United States not otherwise appropriated, to such claimants as have presented or shall hereafter so present their claims, and shall establish such erroneous or illegal assessment and collection, any sums paid by them or on their account or in their interest to the United States under the provisions of the act aforesaid.

Act July 27, 1912, restricts one claiming refund to suit against the United States, and does not authorize one against an internal-revenue collector under Rev. St., sections 3220, 3226-3228. (*Hunnewell v. Gill*, 257 Fed. 857.)

Conditions precedent to suit to recover tax illegally collected, under sections 3226 and 3228, not applicable as to inheritance taxes imposed by act June 13, 1898, if taxpayer has complied with section 3 of act of June 13, 1898, and section 2 of act of July 27, 1912, and presented claim for refund; but provision for repayment under latter act not satisfied where claim has been filed by attorney for trustee or for administrator de bonis non of decedent, the original executrix having paid the tax without protest on behalf of the *cestui que trust*. (*Rand v. United States*, 249 U. S., 503; *T. D. 2886.*)

United States District Court has jurisdiction of suits against the United States based upon act of July 27, 1912; this act not limited to refund of legacy taxes assessed under section 29 of war-revenue act. (*United States v. Hvostef*, 237 U. S., 1; *T. D. 2186.*)

Right to refund of tax paid under section 29, act of June 13, 1898, barred unless claim presented to Commissioner on or before January 1, 1914. (*Coleman v. United States*, 250 U. S., 30.)

Where claim filed and rejected prior to July 27, 1912, not necessary to file new claim under this act on or before July 1, 1914, as basis of suit. (*Sage v. United States*, 250 U. S., 33; *T. D. 2885.*)

SEC. 6. [Act of April 4, 1918 (40 Stat., 506, 506), amending act of September 24, 1917 (40 Stat., 288).] That any bonds of the United States bearing interest at a higher rate than four per centum per annum (whether issued under section one of this Act or upon conversion of bonds issued under this Act or under said Act approved April

twenty-fourth, nineteen hundred and seventeen), which have been owned by any person continuously for at least six months prior to the date of his death, and which upon such date constitute part of his estate, shall, under rules and regulations prescribed by the Secretary of the Treasury, be receivable by the United States at par and accrued interest in payment of any estate or inheritance taxes imposed by the United States, under or by virtue of any present or future law upon such estate or the inheritance thereof.

United States bonds bearing interest at a higher rate than 4 per cent to be accepted at par and accrued interest in payment of estate tax. (T. D. 2705.)

CHAPTER 7.

SPECIAL EXCISE TAX ON CORPORATIONS.¹

[Sec. 38, act of August 5, 1909 (36 Stat., 112).]

Rate of tax; organizations excepted.	Government officer or employee divulging information; penalty.
Net income; how determined.	Failure to make true returns; false returns; penalty; revenue laws made applicable for collection, etc., of tax; jurisdiction United States courts to compel testimony and production of books, etc.
Annual returns required from officers of corporations; computation of tax.	Appropriation for expenses of collecting corporation tax. Returns open to inspection by order of the President.
Procedure when returns are incorrect; failure to make returns; books may be examined; attendance of witnesses compelled.	Additional employees authorized.
Assessment of tax; addition to tax for false returns; payment of tax; penalty for failure to pay; notice; limitation; penalty; interest.	Refund or abatement of penalty taxes.
Returns to be filed in office of Commissioner of Internal Revenue.	

Corporations subject to tax; rate of tax; organizations exempted.

SEC. 38. That every corporation, joint stock company or association, organized for profit and having a capital stock represented by shares, and every insurance company, now or hereafter organized under the laws of the United States or of any State or Territory of the United States or under the Acts of Congress applicable to Alaska or the District of Columbia, or now or hereafter organized under the laws of any foreign country and engaged in business in any State or Territory of the United States or in Alaska or in the District of Columbia, shall be subject to pay annually a special excise tax with respect to the carrying on or doing business by such corporation, joint stock company or association, or insurance company, equivalent to one per centum upon the entire net income over and above five thousand dollars received by it from all sources during such year, exclusive of amounts received by it as dividends upon stock of other corporations, joint stock companies or associations, or insurance companies, subject to the tax hereby imposed; or if organized under the laws of any foreign country, upon the amount of net income over and above five thousand dollars received by it from business transacted and capital invested within the United States and its Territories, Alaska, and the District of Columbia during such year, exclusive of amounts so received by it as dividends upon stock

¹ Repealed by act of Oct. 3, 1913 (p. 761).

of other corporations, joint stock companies or associations, or insurance companies, subject to the tax hereby imposed: *Provided, however,* That nothing in this section contained shall apply to labor, agricultural or horticultural organizations, or to fraternal beneficiary societies, orders, or associations operating under the lodge system, and providing for the payment of life, sick, accident, and other benefits to the members of such societies, orders, or associations, and dependents of such members, nor to domestic building and loan associations, organized and operated exclusively for the mutual benefit of their members, nor to any corporation or association organized and operated exclusively for religious, charitable, or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual.

Corporations engaged in business after approval of act are amenable to the provisions of section 38, although having gone into liquidation prior to December 31, 1909. (T. D., 1615.)

Foreign steamship companies liable. (28 Op. Atty. Gen., 211.)

Real estate trusts liable. (28 Op. Atty. Gen., 235.)

Limited partnerships under Pennsylvania statutes, if organized for profit and having a capital stock represented by shares, although "no certificates of stock" are issued, are liable to the tax. (28 Op. Atty. Gen., 189.)

Mutual savings banks under West Virginia statutes having no capital stock not liable to tax. (28 Op. Atty. Gen., 189.)

A corporation which owned an office building leased the property for 130 years and reorganized, practically going out of business, its sole authority being to hold title and receive and distribute the rentals or proceeds of sale, if the property should be sold, not liable to the tax. (*Zonne v. Minneapolis Syndicate*, 220 U. S., 187; T. D. 1687.)

Certain real estate trusts in Massachusetts not liable. Congress intended to embrace only such corporations and joint-stock associations as are organized under some statute, or derive from that source some quality or benefit not existing at the common law. (*Elliot v. Freeman*; *Maine Baptist Missionary Convention v. Cotting*, 220 U. S., 178; T. D. 1686.)

The act of 1909 must be construed as imposing an excise tax upon the right to do business in corporate form, and the income from the business, which is the measure of the tax upon the right, may be estimated upon the assumption that the form is to be regarded as the reality; a debt released in favor of a corporation by its sole stockholder should be treated as capital rather than income, though a debt so released should be treated as adding to the corporate income. (*United States v. Oregon-Washington R. & Nav. Co.*, 251 Fed., 211.)

This law was adopted before ratification of sixteenth amendment to Constitution and imposed an excise tax on doing of business by corporations; not in any sense a tax on property upon income merely as such, nor upon the income arising from the conduct of business unless it be carried on by the corporation. (*United States v. Whitridge*, 231 U. S., 144.)

Partnership associations organized under laws of Pennsylvania possess every privilege and power essential to a corporation and are liable to the tax imposed by this act. Mutual savings banks organized under laws of West Virginia, while in a sense organized for profit, have not a capital stock represented by shares, and are not subject to tax. (28 Op. Atty. Gen., 189.)

Where profit is one of the substantial objects of company incorporated to provide and operate a terminal for certain railroads, it is within the statute. (*Boston Terminal Co. v. Gill*, 246 Fed., 664; T. D. 2671.)

A mutual protective association, collecting assessments from which to pay death or injury benefits to members and carrying surplus into reserve fund for use in meeting extra losses in a later year is an "insurance company" "doing business" within the meaning of the act. "Fraternal

benefit societies" distinguished. (*Commercial Travelers Life & Accident Association v. Rodway*, 235 Fed., 370; T. D. 1918.)

Old Colony Railroad Co., whose demised roads were operated by the New York, New Haven & Hartford Railroad Co., as lessee, and not as agent, held not a corporation "engaged in business" during the years 1900-1912, inclusive, within the meaning of this act. (*Old Colony Railroad Co. v. Gill*, 257 Fed., 220.)

The corporation tax act of 1909 was a tax upon the doing of business with the advantages which inhere in the peculiarities of corporate organization. (*Gauley Mountain Coal Co. v. Hays*, Collector, 230 Fed., 110.)

The true test to determine whether a corporation organized for a business purpose is engaged in business within the meaning of the corporation tax act is whether it is continuing the body and substance of the business for which it was organized, or whether it has retired from it and turned it over to another. (*Traction Companies v. Collectors of Int. Rev.*, 223 Fed., 984.)

A corporation to be subject to the tax must be organized for the purpose of doing business and must be actually engaged in business. (*Emery, Bird, Thayer Realty Co. v. United States*, 195 Fed., 242; 237 U. S. 28; T. D. 2188.)

Where a corporation is doing the business for which it was organized, the income derived from such business is taxable under the act. (*Rio Grande Junction Ry. Co. v. United States*, 51 Ct. Cls., 274.)

An operating agreement by which a street railroad company surrenders its own and leased lines to the possession of another company for operation for a term of 999 years, in consideration of annual rentals and the payment of interest on its indebtedness and that of its lessors, does not differ in legal effect from a lease, and the lessor is not subject to the excise tax imposed by the corporation tax law. (*McCoach, Collector, v. Continental Passenger Railway Co.*, 233 Fed., 976.)

Tax imposed on corporations by act of 1909 is not a direct tax, but an excise on the privilege of doing business in a corporate capacity. (*Anderson v. Morris & E. R. Co.*, 216 Fed., 83.)

That railroad corporation maintained its organization, held annual meeting of stockholders, elected directors and officers, and appointed an executive committee, would not be sufficient to show that it was "engaged in business;" issuance of bonds to its lessee for completion of branch road would not amount to resumption of business; payment of rent by lessee corporation not to lessor, but to its stockholders and bondholders, could not prevent the rent so paid being subject to taxation under the act of 1909, if the act was otherwise applicable. (*Anderson v. Morris & E. R. Co.*, 216 Fed., 83.)

Railway corporation which had leased its railroad to another company operating it exclusively, but which maintains its corporate existence and collects and distributes to its stockholders the rental from the lessee and also dividends from investments, is not "doing business" within the meaning of the act. (*McCoach v. Minehill Railway Co.*, 228 U. S., 295.)

Corporation tax is imposed upon the doing of corporate business and with respect to the carrying on thereof, and not upon the franchises or property of the corporation irrespective of their use in business. (Id.)

Dissolved corporations liable; assets subject to tax lien. (28 Op. Atty. Gen., 241; T. D. 1615. *United States v. General Inspection and Loading Company*, 192 Fed., 223; T. D. 1736; T. D. 1850.)

Building and loan associations exempt. (*Pacific B. & L. Association v. Hartson*, 201 Fed., 1011; T. D. 1830.)

The legislative purpose was not to tax property as such or mere conversion of property, but to tax the conduct of the business of corporations organized for profit by a measure based upon the gainful returns from their business operations and property from the time the act took effect. The suggestion that the entire proceeds of the conversion of capital assets should be still treated as the same capital, changed only in form and containing no element of income, although including an increment of value, is inconsistent with the general purpose of the act. "Income" imports something entirely distinct from principal or capital, either as a subject of taxation or as a measure of the tax, conveying rather the idea of gain

or increase arising from corporate activities. (*Doyle v. Mitchell Bros. Co.*, 247 U. S., 179; T. D. 2723.)

The fact that plaintiff was a public-utilities corporation, which, under the laws of the State, was not the owner of the property but merely intrusted with the use thereof, which it must devote to the public, does not entitle it to more favorable treatment than other corporations, it being a corporation organized for profit, having a capital stock represented by shares, and the act making no exceptions in favor of public utilities. (*Union Hollywood Water Co. v. Carter*, 238 Fed., 329; T. D. 2475.)

The tax imposed is not an income but an excise tax, imposed upon the doing of business in a corporate capacity, and measured in amount by net income as defined by section 38. (*Houston Belt & Terminal Railway Co. v. United States*, 250 Fed., 1; T. D. 2710.)

The definition of the term "doing business" which has been judicially approved is that which occupies the time, attention, and labor of men for the purpose of a livelihood or profit. A fair test is that a corporation which has reduced its activities to the owning and holding of property and the disposition of its avails and doing only the acts necessary to continue that status is not "doing business," and one which is still active and maintaining its organization for the purpose of continued efforts for profit and gain and such activities as are essential to those purposes is regarded as "doing business." The corporation-tax act required no particular amount of business in order to bring a company within its terms. Moneys received by the corporation in payment for iron ore under the contracts made as so-called royalties amount to income. (*Von Baumbach v. Sargent Land Co.*, 242 U. S., 506; T. D. 2436.)

Act held constitutional. (*Filnt v. Stone-Tracy Co.*, 220 U. S., 107; T. D. 1685.)

The tax imposed on corporations organized for profit and engaged in business, equivalent to 1 per cent on the net income above \$5,000, is valid as an excise on the privilege of doing business in a corporate capacity. *Bialock, Collector, v. Georgia Ry. & Electric Co.*, 228 Fed., 296; 246 Fed., 387.)

The act of 1909 was not in any proper sense an income-tax law, but was an excise upon the conduct of business in a corporate capacity measured by reference to the income. (*Anderson v. Forty-two Broadway Co.*, 239 U. S., 69; T. D. 2261.)

So-called dividends of mutual life insurance company doing business on level premium plan, so far as used to reduce subsequent premiums, not taxable as "income received"; return should not include premium and interest items accrued and due, but not actually collected and received. (*Northwestern Mutual Life Insurance Co. v. Fink*, 248 Fed., 568.)

Such company is not under necessity to return as gross income interest accrued on policy loans. (*Id.*)

Act applies to mining companies, and proceeds of ore mined is income within meaning of act; while act is not an income-tax law, tax is measured by amount of income. (*Stratton's Independence v. Howbert*, 231 U. S., 399; T. D. 1913.)

The terms "doing business within the State" and "doing or transacting business in the United States" do not include the doing of a single act or making of a single contract, but do include a continued series of acts by an agent or agents continuously within the State or the United States, as the case may be. (*Laurentide Co. (Ltd.) v. Durey*, 231 Fed., 223; T. D. 2346.)

Lessor corporation which affirmatively exercises its power to acquire additional franchise rights is carrying on business. (*Public Service Railway Co. v. Herold*, 227 Fed., 490; reversed, 229 Fed., 902. 906; T. D. 2147.)

Lessor corporation exercising corporate powers by adding to its properties, disposing of its investments, making others in cooperation with or at request of lessee with view of enhancing value of leased estate, is outside of ruling in *McCoach v. Minehill R. R. Co.*, and is doing business. (*Public Service Railway Co. v. Moffett*, 227 Fed., 494; T. D. 2146.)

Lessor corporation extending business for benefit of lessee can not say that it is not doing business because it performs the acts done for benefit of lessee as well as of itself. (*Id.*)

Railroad corporation, which has leased its property for term of years, but continues in possession of corporate powers and issues bonds to pay for improvements, etc., in accordance with terms of lease, engaged in business and is liable to tax. (*Dayton & Western Traction Co. v. Gilligan*, T. D. 2000; reversed, *Traction Companies v. Collectors*, 223 Fed., 984; *New York Central & Hudson River R. R. Co. v. Gill*, T. D. 1909; reversed, 219 Fed., 184.)

Reducing capital stock is not engaging in business so as to require payment of tax, nor is bringing of suit by lessee in name of lessor to establish right to cross tracks of another; but joining by lessor in a deed for sale of property and taking of conveyance does constitute transaction of business. (*Dayton & Western Traction Co. v. Gilligan*, T. D. 2000.)

New Jersey corporation doing business in Cuba held liable to tax. (T. D. 1863.)

Evidence required in support of claims for abatement or refund of taxes claimed under decision in case of *McCoach v. Minehill R. R. Co.* (T. D. 1869.)

Fraternal beneficiary societies, orders, or associations, not operating under lodge systems, considered to be such insurance companies as are required to make return of annual net income. (T. D. 1738.)

Corporations engaged in agricultural, horticultural, or similar pursuits, for profit, not exempt from requirements of act. (T. D. 1737.)

Corporation which has been dissolved is subject to payment of tax; dissolution on February 14, 1910, did not relieve corporation from tax for 1909; officers of corporation had authority to make return after dissolution. (T. D. 1736.)

Company not organized for profit, its method of doing business being purely of mutual character, is not liable. (T. D. 1713.)

All corporations not specifically enumerated as exempt are presumed to be subject to tax and required to make returns. (T. D. 1806.)

Realty corporation simply collecting and distributing rent from a specified parcel of land is not doing business. (*Emery, Bird, Thayer Realty Co. v. United States*, 198 Fed., 242, affirmed by Supreme Court, 237 U. S., 28; *Zonne v. Minneapolis Syndicate*, 220 U. S., 187, followed; *Cedar St. Realty Co. v. Park Realty Co.*, 220 U. S., 107, distinguished.)

Corporation organized to own the stock of a mining company, with no assets except such stock, a small amount in bank, and office furniture, etc., and doing nothing other than to receive dividends from the operating company and distribute them as such among its own stockholders, was not "doing business" within the act and was not subject to the tax. (*United States v. Nipissing Mines Co.*, 206 Fed., 431.)

Where amounts which should have been charged to the depletion of corporate assets were carried in a surplus account, taxes can not be based on such amounts, for that would allow the basing of taxes on mere bookkeeping. (*Forty Fort Coal Co. v. Kirkendall*, 233 Fed., 704, 705.)

Where a street railway company, under authority of State law, leased at a graded annual rental its system of street railways, which it owned, operated, and controlled, to another company for a long term, and thereafter engaged in no other business than to maintain and preserve its corporate existence, receiving the rent, and distributing the income among its stockholders, it was no longer "doing business" as a traction company, and was therefore not subject to tax. (*Wilkes-Barre & W. V. Traction Co. v. Davis*, 214 Fed., 511.)

A street railway corporation which leased its lines and property to another corporation in 1897 and had not since operated them was not in 1913 "engaged in business" so as to be subject to tax. (*West End Street Ry. Co. v. Malley*, 246 Fed., 625.)

A gas company, which has leased its plant and all other physical property for a term of years, the business for which it was incorporated being carried on by its lessee, is not "carrying on or doing business" within the meaning of this act and subject to the tax thereby imposed, although it retains its franchise and organization, and receives and disburses its income, and under the terms of the lease bears the expense of alterations, improvements, and additions to its plant made during the term, and also during the term has applied for and obtained from the legislature amendments to its special charter. (*Waterbury Gaslight Co. v. Walsh*, 228 Fed., 54.)

Foreign corporation owning timber lands in a State and operating factory, which sold such timber lands to another company, as well as its plant, payments to be made in installments, the foreign company to retain title until paid in full, although retaining an attorney in the State to look after its interests and an agent for service of process, as required by State statute, was not thereafter "doing business" in the State. (*Bryant & May, Ltd., v. Scott*, 226 Fed., 875.)

Borrowing money from or loaning money to nonmembers does not deprive domestic building and loan associations of exemption as organized and operated for the mutual benefit of members. (*Central Building, Loan and Savings Co. v. Bowland*, 216 Fed., 526.)

A pipe-line company organized by, and doing business only for, two other pipe-line corporations, was not merely a convenient agent of these corporations, but was doing business for profit. (*Associated Pipe Line Co. v. United States*, 258 Fed., 800.)

Where a corporation, with general business powers, amended its articles so as to limit its activities to mere ownership and rental of certain property occupied and used by its stockholders as department store, and applied the entire rent, first to payment of interest on mortgage liens, and then to payment of dividends to stockholders, it was not "doing business." (*Abrast Realty Co. v. Maxwell*, 206 Fed., 333; *Maxwell v. Abrast Realty Co.*, 218 Fed., 457.)

An iron company, which, with the approval of its stockholders, leased to another company for 999 years all its property and assigned to the lessee all its cash, contracts, and entire business, in consideration of a rental equal to 4 per cent on its outstanding stock, payable directly to its stockholders, together with an additional amount to cover the cost of maintaining its organization, after which it had no other income than the rent, was not "doing business." (*Cambria Steel Co. v. McCoach*, 225 Fed., 278.)

Corporation which has leased its electric-power plant and all its property and franchises, except the franchise to be a corporation, is "doing business." (*Public Service Electric Co. v. Herold*, 227 Fed., 491; reversed by 229 Fed., 902, 906.)

Corporation which leases its business as it exists, but reserves right to extend business for benefit of lessee, if lessee requests it, is thereafter "doing business," where it exerts such reserve power so as to acquire additional property, though doing so for benefit of lessee as well as itself. (*Public Service Railway Co. v. Moffett*, 227 Fed., 494; reversed, *Public Service Railway Co. v. Herold*, 229 Fed., 902, 906.)

Corporation leasing its property, franchise rights and privileges, lessee agreeing to make extensions to lessor lines of railway, etc., lessor performing no acts save to receive rentals, was not "doing business." (*Public Service Co. v. Herold*, 227 Fed., 500; *Public Service Railway Co. v. Herold*, 229 Fed., 902, 906.)

Corporation chartered to manufacture, buy, sell, lease, and let power plants and generating stations for manufacture and distribution of electric current is not, because part of authorized business is leasing of property, "doing business," where by lease it divested itself of all its property and has since merely collected and disbursed rents for the demised property. (*Public Service Co. v. Herold*, 229 Fed., 902.)

Gas company which leased all of its property, lessee assuming contracts and being entitled to use company's name wherever necessary to have benefit of its franchise, the company retaining its corporate organization, but issuing no new bonds, was not "doing business." (*Public Service Gas Co. v. Herold*, 227 Fed., 496.)

Railroad corporation which had leased all its property to another, which operated and maintained it, paying fixed rental, is not "doing business," through such corporation maintains its corporate existence and has an office where it receives the rental and though it has during the year made improvements paid for by sale of old material or by certificate of indebtedness of the lessee. (*Jasper & E. Ry. Co. v. Walker*, 238 Fed., 533.)

Where railroad corporation leased its property and franchises to another railroad company, with approval of legislature granting charter, lease providing that lessor should maintain its corporate existence

but should issue to lessee stock, bonds, or other obligations for completion of branch road, etc., lessee binding itself to discharge such obligations at maturity, issuance of bonds by lessor corporation did not amount to engaging in business. (*Anderson v. Morris & E. R. Co.*, 216 Fed., 83.)

Net income; how determined.

Second. Such net income shall be ascertained by deducting from the gross amount of the income of such corporation, joint stock company or association, or insurance company, received within the year from all sources, (first) all the ordinary and necessary expenses actually paid within the year out of income in the maintenance and operation of its business and properties, including all charges such as rentals or franchise payments, required to be made as a condition to the continued use or possession of property; (second) all losses actually sustained within the year and not compensated by insurance or otherwise, including a reasonable allowance for depreciation of property, if any, and in the case of insurance companies the sums other than dividends, paid within the year on policy and annuity contracts and the net addition, if any, required by law to be made within the year to reserve funds; (third) interest actually paid within the year on its bonded or other indebtedness to an amount of such bonded and other indebtedness not exceeding the paid-up capital stock of such corporation, joint stock company or association, or insurance company, outstanding at the close of the year, and in the case of a bank, banking association or trust company, all interest actually paid by it within the year on deposits; (fourth) all sums paid by it within the year for taxes imposed under the authority of the United States or of any State or Territory thereof, or imposed by the government of any foreign country as a condition to carrying on business therein; (fifth) all amounts received by it within the year as dividends upon stock of other corporations, joint stock companies or associations, or insurance companies, subject to the tax hereby imposed: *Provided*, That in the case of a corporation, joint stock company or association, or insurance company, organized under the laws of a foreign country, such net income shall be ascertained by deducting from the gross amount of its income received within the year from business transacted and capital invested within the United States and any of its Territories, Alaska, and the District of Columbia, (first) all the ordinary and necessary expenses actually paid within the year out of earnings in the maintenance and operation of its business and property within the United States and its Territories, Alaska, and the District of Columbia, including all charges such as rentals or franchise payments required to be made as a condition to the continued use or possession of property; (second) all losses actually sustained within the year in business conducted by it within the United States or its Territories, Alaska, or the District of Columbia not compensated by insurance or otherwise, including a reasonable allowance for depreciation of property, if any, and in the case of insurance companies the sums other than dividends, paid within the year on policy and annuity contracts and the net addition, if any, required by law to be made within the year to reserve funds; (third) interest actually paid within the year on its bonded or other indebtedness to an amount of such bonded and other indebtedness, not exceeding the proportion of its paid-up capital stock outstanding

at the close of the year which the gross amount of its income for the year from business transacted and capital invested within the United States and any of its Territories, Alaska, and the District of Columbia bears to the gross amount of its income derived from all sources within and without the United States; (fourth) the sums paid by it within the year for taxes imposed under the authority of the United States or of any State or Territory thereof; (fifth) all amounts received by it within the year as dividends upon stock of other corporations, joint stock companies or associations, and insurance companies, subject to the tax hereby imposed. In the case of assessment insurance companies the actual deposit of sums with State or Territorial officers, pursuant to law, as additions to guaranty or reserve funds shall be treated as being payments required by law to reserve funds.

Where a terminal railroad company, organized to perform terminal services for railroad companies which owned its stock, and such railroad companies and a trust company entering into an arrangement whereby the trust company made a loan to the terminal company, secured by a pledge by the railroad companies of the stock, the railroad companies agreeing to pay annual interest and sinking fund requirement of the loan, evidenced by bonds which were secured by mortgage on the terminal company's property, payments of the installments of interest and sinking fund were but payments of rent by the railroad companies to the terminal company to be accounted for as part of its income, as rent would be, though made direct to the trust company. (*Houston Belt & Terminal Railway Co. v. United States*, 250 Fed., 1; T. D. 2710.)

The words "reserve funds" have reference to the funds ordinarily held as against the contingent liability on outstanding policies. (*McCoach v. Insurance Co. of North America*, 244 U. S., 585; T. D. 2501.)

A steamship company is entitled to deduct from gross income amounts paid out for ordinary and necessary repairs in the maintenance and operation of its business and property and in addition a reasonable allowance for depreciation of property, if any. (*San Francisco and Portland Steamship Co. v. Scott*, 253 Fed., 854; T. D. 2773.)

Though what is a necessary expense of operation and what is a reasonable allowance for property depreciation are ultimately questions of fact, so far as they involve legal questions they are absolutely judicial questions, and the declaration in a suit to recover tax which fails to show the making of a new assessment by the Commissioner is therefore not demurrable. (*United States v. N. C. & St. L. Ry. Co.*, 249 Fed., 678; T. D. 2697.)

"Paid-up capital stock" defined. (*United States v. New York, New Haven & Hartford Railroad Co.*, T. D. 2896.)

Net income means that which has actually been received, and not that which, although due, has not been received, but payment deferred or postponed. (*Mut. Benefit Life Ins. Co. v. Herold*, 198 Fed., 199, 214.)

So-called "dividends" paid annually to policyholders by mutual life insurance company doing business on the level-premium plan not taxable; rule not applicable to "dividend" declared in case of full-paid participating policy. (*Mutual Benefit Life Insurance Co. v. Herold*, 198 Fed., 199; 201 Fed., 918; 231 U. S., 755.)

Income may be defined as gain derived from capital or labor, or from both combined. (*Stratton's Independence (Ltd.) v. Howbert*, 231 U. S., 399; T. D. 1913. *Connecticut General Life Insurance Co. v. Eaton*, Collector, 218 Fed., 188; 223 Fed., 1022.)

The word "income" means the same as in prior laws imposing a tax on income. (*C. C. C. & St. L. Ry. Co. v. United States*, 242 Fed., 18.)

Profits of a corporation distributed to stockholders nominally as salaries not deductible from gross income. They do not differ from dividends on stock. (*Jacobs & Davies (Inc.) v. Collector*, 228 Fed., 505; T. D. 2262.)

In computing gross income of corporations subject to tax under act, interest received on its Government bonds should be included. (28 Op. Att'y. Gen., 138.)

Mortgage indebtedness not assumed by corporation; interest may be deducted. (28 Op. Att'y. Gen., 198.)

In order to determine whether there has been gain or loss and the amount of the gain, if any, an amount must be withdrawn from the gross proceeds of sale sufficient to restore the capital value that existed on December 31, 1908, notwithstanding any increment of value up to that time had not been entered upon the plaintiff's books of account. Gain on a sale of timber acquired by a lumber manufacturing company before January 1, 1909, and converted into money after that date is income within the meaning of the act, but only such portion of the gain as accrued subsequent to December 31, 1908, is taxable. (*Doyle v. Mitchell Bros. Co.*, 247 U. S., 179; T. D. 2723.)

For purpose of determining net income, mining corporation is not entitled to deduct from its gross income any amount whatever on account of depletion or exhaustion of ore bodies caused by its operations for year for which the tax is assessed, or to a deduction against gross proceeds from the mining and treatment of ores to the extent of the cost value of the ore in the ground before it was mined, ascertained in compliance with T. D. 1675. (*Goldfield Consolidated Mines Co. v. Scott*, 247 U. S., 126; T. D. 2722.)

The act measured the tax by the income received within the year for which the assessment was levied, whether it accrued within that year or in some preceding year while the act was in effect; but it excluded all income that accrued prior to January 1, 1909, although afterwards received while the act was in effect. When sale of stock resulted in a gain or profit to the extent of the difference between the buying and selling prices, so much of the profits as may be deemed to have accrued subsequent to December 31, 1908, must be treated as a part of the gross income of the respondent. Determination of the value of the capital assets on December 31, 1908, is a matter of detail to be settled according to the best evidence obtainable and in accordance with valid departmental regulations. (*Hays v. Gauley Mountain Coal Co.*, 247 U. S., 189; T. D. 2724.)

Moneys received from consumers of water for service connections and pipe extensions are not permitted to be deducted from the gross amount of the income, for they do not come within any of the permitted classes of deductions mentioned in the statute. Moneys so expended are invested in permanent improvements, which tend to enhance the rental and market value of the water system. (*Union Hollywood Water Co. v. Carter*, 238 Fed., 329; T. D. 2475.)

Iron-ore leases of the kind under consideration are not conveyances of the ore in place, but are grants of the privilege of entering upon, discovering, and developing and removing the minerals from the land. The lessee of mining property may not deduct the proportionate value of the ore in place on January 1, 1909, with respect to each ton of ore mined, as so much depletion of capital assets, but may deduct a proportionate part of the royalty paid in advance. (*United States v. Biwabik Mining Co.*, 247 U. S., 116; T. D. 2721.)

A railroad corporation purchasing stock in another corporation for investment prior to January 1, 1909, is taxable with respect to so much of the profit upon a sale of the stock as accrued after December 31, 1908; value of stock may be determined by an inventory taken as of that date, and the stipulated fact of the market value of the stock on that date may be accepted as supplying the lack of an inventory. (*United States v. C. C. C. & St. L. Railroad Co.*, 247 U. S., 195; T. D. 2725.)

When premiums received by a mutual insurance company are income received within the year. (*Lumber Mutual Fire Ins. Co. v. Malley*, 256 Fed., 380.)

Under State law, where banks pay the State tax imposed on shareholders, but have a lien until reimbursed on the shares of stock and all dividends, the tax is not imposed on the banks; and the taxes so paid can not be legally deducted from gross income in returns made by banks under this act. (*National Bank of Commerce v. Allen*, 223 Fed., 472; T. D., 2198.)

Income means what has come in, or receipts. Company obligated to report in full total received in cash, both amounts received at home office and those paid to lawful agencies during calendar year. Only net addition to reserve funds required by State statutes is deductible from gross income. No State law has been pointed out which requires maintenance of reserve fund to secure payments of taxes, salaries, and brokerage and agents' commissions. (*Maryland Casualty Co. v. United States*, 52 Ct. Cls., 201; T. D., 2451.)

Where railroads seeking to recover from collectors of internal revenue taxes illegally assessed, delayed in pressing their claims on account of an understanding with collectors that claims should await decision of other pending cases, but it became apparent that question of interest would have to be submitted to the court, the railroad's conduct did not disentitle them to interest for any lack of diligence in prosecution. (*Boston & P. R. Corporation v. Gill*, 257 Fed., 221.)

Where a New Jersey corporation engaged in insurance business was required by New Jersey commissioner of banking and insurance to provide reserve for all policies written though premiums were not fully paid, all sums paid into reserve are to be excluded in computing gross income for purpose of taxation under act. (*Prudential Insurance Co. v. Herold*, 247 Fed., 681.)

Increase in book value of securities held by a banking and trust company does not constitute income received during the year, but should be treated as increase of capital. (*Industrial Tr. Co. v. Walsh*, 222 Fed., 437.)

Where old rails are replaced with new and heavier rails, wooden bridges and culverts with concrete and steel bridges and culverts, the rule is that the cost of renewals with like kind and quality is allowable, but excess cost is not allowable as a deduction. (*Grand Rapids & Indiana Ry. Co. v. Doyle*, 245 Fed., 789.)

Mining corporation engaged in extracting ore from its mines is entitled to an allowance for depreciation equal to the value in place of the ore extracted and disposed of during the year. (*United States v. Nipissing Mines Co.*, 202 Fed., 808; affirmed, 206 Fed., 431.)

Where property of a coal mining corporation was depreciated for each ton of coal mined to the amount of 15 cents per ton, the corporation could not be taxed on the theory that the full value of the coal mined represented the income, but was entitled to deduct therefrom such amounts as represented depreciation in the mining property. (*Forty Fort Coal Co. v. Kirkendall*, 233 Fed., 704.)

Moneys paid a pipe-line corporation by its stockholders was not payment for capital stock, but advances to corporation, and corporation, having no paid-up stock, could not deduct interest on such advances in calculating net income. (*Associated Pipe Line Co. v. United States*, 258 Fed., 800.)

A corporation which did a brokerage business and bought securities for its customers, who paid only a part of the purchase price, paying interest on balances, the corporation also paying for the securities purchased only part of the purchase price and owing balances on which it paid interest, including in return of gross income the difference between the interest received and the interest paid, made incorrect return. Interest received from customers should be included in gross income. Interest paid by corporation on said purchases is allowable as interest payable on its bonded or other indebtedness. In determining net income, interest can be deducted only to an amount not exceeding paid-up capital stock outstanding at close of year. (*Althelmer & Rawlings Investment Co. v. Allen*, 248 Fed., 688; 248 U. S., 578; T. D. 2686.)

Interest on bonds or other indebtedness is an allowable deduction from gross income only to an amount paid upon bonded or other indebtedness not exceeding the corporation's paid-up capital stock. (*Boston Terminal Co. v. Gill*, 246 Fed., 664; T. D. 2671.)

Where a railroad company sold bonds and equipment notes at a discount in 1906, and the books show the loss was entirely charged off under the profit-and-loss account for 1906, and the company in making returns under the act of August 5, 1909, for the purpose of assessment of excise tax for years 1911 and 1912, failed to deduct the proportionate amount of discount sustained, it has no right to claim refund

of such amount. (*Chicago & Alton R. R. Co. v. United States*, 53 Ct. Cls., 41; T. D. 2631.)

Where a corporation sold mortgage bonds at a discount, amount of discount was not an "expense of the business" and was not deductible; but where it appraised certain property at a higher valuation and other property not previously appraised, the apparent increase was not a part of its income. (*Baldwin Locomotive Works v. McCoach*, 221 Fed., 59; T. D. 2185.)

Building and loan association is "organized and operated exclusively for the mutual benefit of its members," and is therefore entitled to exemption from the tax even if it issues both prepaid and installment stock; the prepaid stock being entitled to a fixed dividend, payable, however, only out of earnings of the association. (*Herold v. Parkview B. & L. Ass'n*, 210 Fed., 577; T. D. 1941.)

State tax on capital stock of banks under Massachusetts statute falls directly on the stockholders, and these taxes can not be legally deducted from gross income made by banks under the corporation excise tax act. The tax is not upon the banks, and in paying it they act as agents. (*Eliot National Bank v. Gill*, 218 Fed., 600; T. D. 2121.)

Under Rev. St., sections 3224, 3226, forbidding maintenance of any suit to restrain assessment or collection of taxes by United States and conferring right to sue for recovery of taxes paid under protest, a corporation had an adequate remedy at law to recover income taxes assessed under act of 1909. A stockholder could not, therefore, maintain a suit to restrain the corporation from paying the tax on the ground that the corporation was not subject to assessment. (*Straus v. Abrast Realty Co.*, 200 Fed., 327; T. D. 1788.)

Under acts, Tennessee, 1895, chapter 160, paragraphs 1, 8, 16, relating to insurance companies, reserve funds are not required by law to be so maintained as to include additional sums reserved to satisfy unpaid losses accrued or prospected. And no deductions for amounts so reserved, though required by the insurance commission, can be allowed under act of 1909 in computing a Tennessee company's net income for taxation, though the act provided for deduction of any additions to reserve funds required by law. (*National Life and Accident Ins. Co. v. Craig*, 251 Fed., 524.)

Where property is sold by a corporation at an advance over the original purchase price, the amount of such advance is a gain or profit received during the year for the purpose of computing its net income. (*Scott v. Schwab*, 255 Fed., 57.)

State, county, and municipal taxes paid by a bank under laws, Florida, 1907, chapter 5596, paragraph 8, constitute a liability of the bank, and not of its stockholders, and are to be deducted from the gross income of the bank to ascertain the net amount on which the 1 per cent of excise tax under this act is to be calculated. (*United States v. Guaranty Trust and Savings Bank*, 253 Fed., 291.)

Interest on bonds of corporation engaged in leasing and operating an office building erected by it on its own realty can be deducted only to an amount not exceeding the paid-up capital stock outstanding at the close of the year. (*Anderson v. Forty-two Broadway Co.*, 239 U. S., 69; T. D. 2261.)

Dividends declared by insurance companies are the dividends referred to as not being deductible from gross income, and when such dividends are applied to the payment of renewal premiums to shorten the endowment or premium-paying period, to purchase paid-up additions and annuities, etc., they must be included in and accounted for as income. (T. D. 1743.)

Expenditures for labor and material and for replacements of old rails and wooden bridges with new rails and steel bridges not exceeding original costs for same are allowable deductions from gross income; expenditures for additions and betterments to property, such as building new sidings, spur tracks, stations and shops, and installing new machinery, are not allowable deductions; "maintenance" defined. (*Grand Rapids & Ind. R. R. Co. v. Doyle*, 245 Fed., 792; T. D. 2210.)

Insurance companies owning securities taken at market value may not deduct as depreciation net decrease in market value of such securities; sums due the United States are valid offset as against amount found due

taxpayer in suit against collector, though included therein are items which Commissioner did not claim to be due when considering return for assessment purposes. (T. D. 2882.)

Interest paid by corporation on sum representing premiums received from sale of stock can not be deducted in ascertaining net income. (T. D. 2880.)

Inclusion of supplementary contracts, as exhibiting reserve liability, in calculation of annual net addition to reserve, to be deducted from income of mutual life insurance company, is warranted. (Northwestern Mutual Life Insurance Co. v. Fink, 248 Fed., 568.)

Company chartered to sell securities not allowed to deduct amounts paid as interest to purchasers of evidences of indebtedness issued by it and termed "debenture bonds"; amount paid to purchasers of notes and bonds secured by mortgages on real estate and sold and assigned to investors with the company's guaranty, not allowed as deduction. (Middlesex Banking Co. v. Eaton, 233 Fed., 87; T. D. 2320.)

Tax paid to a State by various corporations on shares of their stock owned by another corporation are not deductible from gross income of latter corporation as taxes paid by it. (United States v. Aetna Life Insurance Co., T. D. 2927.)

Where corporation sold bonds at a discount during 1906, 1907, and 1908, no deduction from gross income for the years 1909, 1910, and 1911 of sums set aside to pay such discount at maturity of bonds is permitted; Baldwin Locomotive Works v. McCoach explained. (Southern Pac. R. R. Co. v. Muentner, 260 Fed. 837; T. D. 2944.)

Annual returns required from officers of corporation; computation of tax.

Third. There shall be deducted from the amount of the net income of each of such corporations, joint stock companies or associations, or insurance companies, ascertained as provided in the foregoing paragraphs of this section, the sum of five thousand dollars, and said tax shall be computed upon the remainder of said net income of such corporation, joint stock company or association, or insurance company, for the year ending December thirty-first, nineteen hundred and nine, and for each calendar year thereafter; and on or before the first day of March, nineteen hundred and ten, and the first day of March in each year thereafter, a true and accurate return under oath or affirmation of its president, vice-president, or other principal officer, and its treasurer or assistant treasurer, shall be made by each of the corporations, joint stock companies or associations, and insurance companies, subject to the tax imposed by this section, to the collector of internal revenue for the district in which such corporation, joint stock company or association, or insurance company, has its principal place of business, or, in the case of a corporation, joint stock company or association, or insurance company, organized under the laws of a foreign country, in the place where its principal business is carried on within the United States, in such form as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe, setting forth (first) the total amount of the paid-up capital stock of such corporation, joint stock company or association, or insurance company, outstanding at the close of the year; (second) the total amount of the bonded and other indebtedness of such corporation, joint stock company or association, or insurance company at the close of the year; (third) the gross amount of the income of such corporation, joint stock company or association, or insurance company, received during such year from all sources, and if organized under the laws of a foreign country the gross amount of its income received within the year from business transacted and cap-

ital invested within the United States and any of its Territories, Alaska, and the District of Columbia; also the amount received by such corporation, joint stock company or association, or insurance company, within the year by way of dividends upon stock of other corporations, joint stock companies or associations, or insurance companies, subject to the tax imposed by this section; (fourth) the total amount of all the ordinary and necessary expenses actually paid out of earnings in the maintenance and operation of the business and properties of such corporation, joint stock company or association, or insurance company, within the year, stating separately all charges such as rentals or franchise payments required to be made as a condition to the continued use or possession of property, and if organized under the laws of a foreign country the amount so paid in the maintenance and operation of its business within the United States and its Territories, Alaska, and the District of Columbia; (fifth) the total amount of all losses actually sustained during the year and not compensated by insurance or otherwise, stating separately any amounts allowed for depreciation of property, and in the case of insurance companies the sums other than dividends, paid within the year on policy and annuity contracts and the net addition, if any, required by law to be made within the year to reserve funds; and in the case of a corporation, joint stock company or association, or insurance company, organized under the laws of a foreign country, all losses actually sustained by it during the year in business conducted by it within the United States or its Territories, Alaska, and the District of Columbia, not compensated by insurance or otherwise, stating separately any amounts allowed for depreciation of property, and in the case of insurance companies the sums other than dividends, paid within the year on policy and annuity contracts and the net addition, if any, required by law to be made within the year to reserve fund; (sixth) the amount of interest actually paid within the year on its bonded or other indebtedness to an amount of such bonded and other indebtedness not exceeding the paid-up capital stock of such corporation, joint stock company or association, or insurance company, outstanding at the close of the year, and in the case of a bank, banking association or trust company, stating separately all interest paid by it within the year on deposits; or in case of a corporation, joint stock company or association, or insurance company, organized under the laws of a foreign country, interest so paid on its bonded or other indebtedness to an amount of such bonded and other indebtedness not exceeding the proportion of its paid-up capital stock outstanding at the close of the year, which the gross amount of its income for the year from business transacted and capital invested within the United States and any of its Territories, Alaska, and the District of Columbia, bears to the gross amount of its income derived from all sources within and without the United States; (seventh) the amount paid by it within the year for taxes imposed under the authority of the United States or any State or Territory thereof, and separately the amount so paid by it for taxes imposed by the government of any foreign country as a condition to carrying on business therein; (eighth) the net income of such corporation, joint stock company or association, or insurance company, after making

the deductions in this section authorized. All such returns shall as received be transmitted forthwith by the collector to the Commissioner of Internal Revenue.

Assets belonging to corporations liable to this tax are subject to the lien created by section 3186, R. S., after demand has been made for the tax. Where assets have been distributed prior to such demand the Government may collect the tax by pursuing the assets into the hands of the stockholders. (28 Op. Atty. Gen., 241; T. D. 1615.)

Company must report in full total sums received in cash, both amounts received at home office and those paid to its lawful agencies during calendar year; only net addition to reserve funds required by State statute is deductible. (*Maryland Casualty Co. v. United States*, 52 Ct. Cls., 201; T. D. 2451.)

As the tax imposed is measured by and is not a tax upon the net receipts of corporations, etc., interest received during the year on Government bonds is not a proper deduction from such income in determining the amount of tax due. (28 Op. Atty. Gen., 138; T. D. 1583.)

Dividends received by corporations on stock of other corporations whose net income does not exceed \$5,000 is nevertheless a proper deduction under the law. (28 Op. Atty. Gen., 140.)

Mortgage indebtedness on real estate, if assumed by the corporation acquiring such real estate, to be included in the indebtedness of the corporation. But if not so assumed and remains only as a lien on the property, interest paid thereon may be deducted as a charge "made as a condition to the continued use or possession of the property." (28 Op. Atty. Gen., 198.)

Corporations having net income of \$5,000 or less not exempt from requirement that return be made to collector of district. (*United States v. Acorn Roofing Co.*, 204 Fed., 157; T. D. 1784; *United States v. Military Construction Co.*, 204 Fed., 153; T. D. 1774; T. D. 1729.)

State taxes imposed on shareholders which are paid by bank can not be legally deducted from gross income in returns made by bank. (T. D. 1763; *National Bank of Commerce v. Allen*, 223 Fed., 472; T. D. 2198.)

Insurance reserves and sum set aside for amortization of bonds are properly deductible from gross income in making returns of annual net income. (T. D. 1727.)

Where returns were filed within time required and returned for correction, and correct return subsequently filed, name should be stricken from delinquent list. (T. D. 1711.)

Increased valuations of assets entered on books of corporations to be included in gross income; said valuations not required to be entered on books. (T. D. 1706.)

Corporation which sold bonds at discount during 1906, 1907, and 1908 not entitled to deduct from gross income for years 1909, 1910, and 1911 sums set aside to pay such discount at maturity of bonds; *Baldwin Locomotive Works v. McCoach* explained. (*Southern Pac. R. R. Co. v. Muentner*, T. D. 2944.)

Receivers of insolvent corporation which was not doing business when this act was passed, and has done no business since, are not within the act nor required to make returns and pay taxes on the income realized by them while acting as officers of the court and under its direction. (*Pennsylvania Steel Co. v. New York City Railway Co.*, 198 Fed., 774.)

Procedure when returns are incorrect; failure to make returns; examination of books; compelling attendance of witnesses.

Fourth. Whenever evidence shall be produced before the Commissioner of Internal Revenue which in the opinion of the Commissioner justifies the belief that the return made by any corporation, joint stock company or association, or insurance company, is incorrect, or whenever any collector shall report to the Commissioner of Internal Revenue that any corporation, joint stock company or association, or insurance company, has failed to make a return as required by law, the Commissioner of Internal Revenue may require

from the corporation, joint stock company or association, or insurance company making such return, such further information with reference to its capital, income, losses, and expenditures as he may deem expedient; and the Commissioner of Internal Revenue, for the purpose of ascertaining the correctness of such return or for the purpose of making a return where none has been made, is hereby authorized, by any regularly appointed revenue agent specially designated by him for that purpose, to examine any books and papers bearing upon the matters required to be included in the return of such corporation, joint stock company or association, or insurance company, and to require the attendance of any officer or employee of such corporation, joint stock company or association, or insurance company, and to take his testimony with reference to the matter required by law to be included in such return, with power to administer oaths to such person or persons; and the Commissioner of Internal Revenue may also invoke the aid of any court of the United States having jurisdiction to require the attendance of such officers or employees and the production of such books and papers. Upon the information so acquired the Commissioner of Internal Revenue may amend any return or make a return where none has been made. All proceedings taken by the Commissioner of Internal Revenue under the provisions of this section shall be subject to the approval of the Secretary of the Treasury.

Commissioner of Internal Revenue, upon evidence produced before him, is authorized to make, or amend incorrect, return, as the case may be; he is also authorized to make additional assessments after taxes have been assessed and paid on original returns, even though errors in the original returns were made without any intention to deceive or mislead. (*Elliot National Bank v. Gill*, 218 Fed., 600; T. D. 2121.)

The Commissioner has power to make a new assessment within three years in case an incorrect return has been made; there is no necessity of construing the word "false," where it is used with reference to the time in which the Commissioner shall act, to mean fraudulently false. (*National Bank of Commerce v. Allen*, 223 Fed., 472; T. D. 2198.)

Corporation which, as stockholder, receives dividends from another corporation, may not deduct taxes paid on its stock in its behalf by latter corporation, where it did not include amount of such taxes in return of gross income. (*United States v. Aetna Life Ins. Co.*, 260 Fed., 333.)

Assessment of tax; additional tax; payment of tax; penalties; notice.

Fifth. All returns shall be retained by the Commissioner of Internal Revenue, who shall make assessments thereon; and in case of any return made with false or fraudulent intent, he shall add one hundred per centum of such tax, and in case of a refusal or neglect to make a return or to verify the same as aforesaid he shall add fifty per centum of such tax. In case of neglect occasioned by the sickness or absence of an officer of such corporation, joint stock company or association, or insurance company, required to make said return, or for other sufficient reason, the collector may allow such further time for making and delivering such return as he may deem necessary, not exceeding thirty days. The amount so added to the tax shall be collected at the same time and in the same manner as the tax originally assessed unless the refusal, neglect, or falsity is discovered after the date for payment of said taxes, in which case the amount so added shall be paid by the delinquent corporation, joint stock company or association, or insurance company, immediately upon notice given by the collector. All assessments shall be made

and the several corporations, joint stock companies or associations, or insurance companies, shall be notified of the amount for which they are respectively liable on or before the first day of June of each successive year, and said assessments shall be paid on or before the thirtieth day of June, except in cases of refusal or neglect to make such return, and in cases of false or fraudulent returns, in which cases the Commissioner of Internal Revenue shall, upon the discovery thereof, at any time within three years after said return is due, make a return upon information obtained as above provided for, and the assessment made by the Commissioner of Internal Revenue thereon shall be paid by such corporation, joint stock company or association, or insurance company immediately upon notification of the amount of such assessment; and to any sum or sums due and unpaid after the thirtieth day of June in any year, and for ten days after notice and demand thereof by the collector, there shall be added the sum of five per centum on the amount of tax unpaid and interest at the rate of 1 per centum per month upon said tax from the time the same becomes due.

Notice of assessment may be sent by mail; notice sent in franked envelope bearing return card, and not returned, presumptively received. (*United States v. General Inspection & Loading Co.*, 204 Fed., 657.)

The word "false," as used in the fifth subdivision of section 38, means "untrue" or "incorrect," and does not necessarily mean intentionally or fraudulently false. This act does not make the remedy by way of a reassessment by the Commissioner exclusive of all other remedies for collection of excise tax imposed on corporations, and suit may be brought under Revised Statutes, section 3213, without any such reassessment. (*United States v. N. C. & St. L. Ry. Co.*, 249 Fed., 678; T. D. 2697.)

Taxpayer having understated in its original return the amount for which it was subject to tax is not entitled to recover any part of a second assessment paid, although the original return was made in good faith and without any intention to escape lawful tax. (*Camp Bird, Ltd., v. Howbert*, 249 Fed., 27; T. D. 2861; reversed, 248 U. S., 590.)

Regulations relating to the assessment and collection of the special excise tax imposed on corporations, joint-stock companies, associations, and insurance companies. (Regulations No. 31; T. D. 1571.)

Action of debt may be brought against a corporation to recover back taxes. Suit is maintainable notwithstanding assessment can not be made; suit not barred by a three-year limitation in act of 1909. (*United States v. Minneapolis Threshing Machine Co.*, 229 Fed., 1019; T. D. 2285.)

The three-year limitation is not a limitation upon the right of the Government to sue for unpaid taxes, but at most is a limitation upon the right of collecting officers to make assessment and to enforce payment by the summary statutory proceedings; suit for taxes will lie without assessment. (*United States v. Grand Rapids & Indiana R. Co.*, 239 Fed., 153; T. D. 2166.)

In the provision of the act relative to assessments, the word "false" includes returns which are merely incorrect. In some instances the term "false" as used in the act means willfully and intentionally false. The statute does not require the additional assessment to be made within the three-year period. (*Elliot National Bank v. Gill*, 218 Fed., 600; T. D. 2121.)

Administrative officers unauthorized to relieve corporations from requirement that additional tax of 50 per cent shall be paid in case of failure to make return within prescribed time. (T. D. 1701.)

Assessed taxes held to be due and payable 10 days after actual mailing of notice and demand, Form 17. (T. D. 1859.)

Returns to be filed in office of Commissioner of Internal Revenue.

Sixth. When the assessment shall be made, as provided in this section, the returns, together with any corrections thereof which may have been made by the Commissioner, shall be filed in the office of the

Commissioner of Internal Revenue and shall constitute public records and be open to inspection as such.

Amended by the act of June 17, 1910, which provides that the returns shall be open to inspection only upon the order of the President, page 728. Publicity clause. (T. D. 1594. T. D. 1665.)

Government officer or employee divulging information; penalty.

Seventh. It shall be unlawful for any collector, deputy collector, agent, clerk, or other officer or employee of the United States to divulge or make known in any manner whatever not provided by law to any person any information obtained by him in the discharge of his official duty, or to divulge or make known in any manner not provided by law any document received, evidence taken, or report made under this section except upon the special direction of the President; and any offense against the foregoing provision shall be a misdemeanor and be punished by a fine not exceeding one thousand dollars, or by imprisonment not exceeding one year, or both, at the discretion of the court.

Failure to make true returns; false returns; applicability of general revenue laws; jurisdiction to compel testimony and production of books, etc.

Eighth. If any of the corporations, joint stock companies or associations, or insurance companies, aforesaid, shall refuse or neglect to make a return at the time or times hereinbefore specified in each year, or shall render a false or fraudulent return, such corporation, joint stock company or association, or insurance company, shall be liable to a penalty of not less than one thousand dollars and not exceeding ten thousand dollars.

Any person authorized by law to make, render, sign, or verify any return who makes false or fraudulent return, or statement, with intent to defeat or evade the assessment required by this section to be made, shall be guilty of a misdemeanor, and shall be fined not exceeding one thousand dollars or be imprisoned not exceeding one year, or both, at the discretion of the court, with the costs of prosecution.

All laws relating to the collection, remission, and refund of internal-revenue taxes, so far as applicable to and not inconsistent with the provisions of this section, are hereby extended and made applicable to the tax imposed by this section.

Jurisdiction is hereby conferred upon the circuit and district courts of the United States for the district within which any person summoned under this section to appear to testify or to produce books, as aforesaid, shall reside, to compel such attendance, production of books, and testimony by appropriate process.

Synopsis of decisions relating to the tax. (T. D. 1606, 1675.)

Suit to recover back taxes collected can not be maintained against the successor of collector to whom the taxes were paid, except in his individual capacity; remedy either lies in an action against the collector who actually received the taxes or in an action against the United States; act of February 8, 1890, was to enable proceedings pending against public officials in their official capacity to be continued when necessary to obtain settlement of questions involved. (*Roberts v. Lowe*, 236 Fed., 604; T. D. 2394.)

Remedy by suit against collector where taxes have been wrongfully collected is not made exclusive by provisions that all laws relating to collection, remission, and refund of taxes, so far as applicable, are ex-

tended to the corporation excise tax. (United States v. Emery, Bird, Thayer Realty Co., 237 U. S. 28.)

Suit to recover taxes erroneously or illegally assessed can only be brought against collector who collected taxes, and not his successor. (Philadelphia, Harrisburg & Pittsburgh R. C. v. Lederer, 242 Fed., 492. T. D. 2507.)

Penalty for failure to make prescribed returns. (T. D. 1692.)

Penalty prescribed is constitutional; acceptance of return by Commissioner is not a waiver of the penalty. (T. D. 1864.)

Where corporations have gone out of business, leaving no assets, no proceedings to be instituted for penalty for failure to make return; assets distributed among stockholders available for collection of tax but not for penalty. (T. D. 1852.)

Appropriation for expenses of collecting tax; returns open to inspection by order of President.

[Extract from the legislative, executive, and judicial appropriation act for the fiscal year ending June 30, 1911, approved June 17, 1910. (36 Stat., 494.)]

* * * * *

For expenses of collecting the corporation tax authorized by the Act approved August fifth, nineteen hundred and nine: "To provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," one hundred thousand dollars.

For classifying, indexing, exhibiting and properly caring for the returns of all corporations, required by section thirty-eight of an Act entitled "An Act to provide revenue, equalize duties, encourage the industries of the United States, and for other purposes," approved August fifth, nineteen hundred and nine, including the employment, in the District of Columbia, of such clerical and other personal services and for rent of such quarters as may be necessary, twenty-five thousand dollars: *Provided*, That any and all such returns shall be open to inspection only upon the order of the President under rules and regulations to be prescribed by the Secretary of the Treasury and approved by the President.

See also the legislative, executive, and judicial appropriation act approved March 4, 1911, which appropriated the same amount for the year ended June 30, 1912, repeating the proviso. (36 Stat., 1197.)

Deficiency appropriation act of March 4, 1911 (36 Stat., 1291), appropriated \$5,000 for the purposes above specified, repeating the proviso.

Executive order and regulations governing the publicity of returns, November 25, 1910. (T. D. 1665.)

[Extract from the deficiency appropriation act for 1910 (act of June 25, 1910, 36 Stat., 780).]

The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is authorized out of the appropriation made for the purpose of carrying into effect section thirty-eight of the tariff Act of August fifth, nineteen hundred and nine, for the fiscal year nineteen hundred and eleven, and out of the balance of the appropriation for that purpose for the fiscal year nineteen hundred and ten, which balance is hereby reappropriated and made available for the fiscal year nineteen hundred and eleven, to employ such additional force of internal-revenue agents, inspectors, deputy collectors, clerks, laborers, and other assistants as he may deem proper and necessary to the prompt operation and enforcement of said section thirty-eight.

* * * * *

See also the deficiency appropriation act of March 4, 1911 (36 Stat., 1291), which reenacted authority to employ additional force.

Refund or abatement of penalty taxes.

An act to provide for refund or abatement under certain conditions of penalty taxes imposed by section 38 of the act of August 5, 1909, known as the special excise corporation-tax law, approved March 3, 1913 (37 Stat., 734).

Be it enacted, etc., That any corporation, joint-stock company, association, or any insurance company subject to the special excise tax provided by section thirty-eight of the act of August fifth, nineteen hundred and nine, known as the special excise corporation-tax law, which has been or may be compelled to pay or become liable for any additional tax within the provisions of subsection five of said section thirty-eight, which additional tax has been or may hereafter be imposed for a neglect to file a return as provided in said corporation-tax law on or before the first of March of any year, may, within one year after the passage of this act or within one year after the date of notice of assessment where such notice is given after the passage of this act, make application to the Commissioner of Internal Revenue for a refund of such additional tax. And the Commissioner of Internal Revenue, with the advice and consent of the Solicitor of Internal Revenue, is hereby directed to remit, abate, or pay back all such additional taxes in excess of \$100 for any single year whenever in any case it appears to his satisfaction that the additional tax was assessed or imposed solely because of a neglect to make a return at the time or times specified in said act, and without any intention or design on the part of any officer of such corporation, joint-stock company, association, or insurance company to hinder or delay the United States in the collection of the tax originally assessed.

Claim for abatement or refund required to be made on Form 47 or 48, respectively; claims required to be accompanied by affidavit of corporation's president, vice president, or other principal officer, and its treasurer or assistant treasurer, stating that neglect to make return was without intent or design to hinder or delay the United States in collection of tax, etc. (T. D. 1838.)

CHAPTER 8.**INCOME TAX.**

AN ACT To reduce tariff duties and to provide revenue for the Government, and for other purposes. Approved October 3, 1913 (38 Stat., 114, 166.)

Normal tax.	Return not required of income from dividends of taxable corporations.
Additional tax.	Understatements; appeal from collector.
Personal return; regulations.	Assessments, notice of, payment of—return by Commissioner within three years.
Holding companies; accumulation of profits beyond needs.	Five per cent penalty and interest.
Statement of profits.	Collection of tax at the source.
Income defined.	False statement; penalty.
Proceeds of life insurance policies exempt.	Returns for minors, insane persons, and absentees.
Deductions.	Tax to be withheld from interest on bonds.
Persons residing abroad.	Withholding tax from interest on foreign bonds.
Interest on State and United States bonds to be excluded.	License to engage in business of collecting foreign payments.
Additional exemption in the case of married persons.	Contracts; returns; regulations.
Time for computing tax; returns.	
Firms, companies, corporations, etc., to withhold tax and make return.	
Partnership tax.	

Deduction at source applies to normal tax only.

Penalty for neglect or refusal to make return or for making false or fraudulent return.

Tax on corporations.

Organizations exempt.

Income derived from public utility or governmental function.

Deductions allowed.

Tax; how computed; calendar year.

Returns, date of making; requirements.

Assessments; notice and payment.

Payment by corporation designating different fiscal year.

Commissioner to make return and assessment within three years.

Five per cent penalty and interest.

Returns to be filed; publicity; inspection, when allowed.

Corporations neglecting to make return or making false return; penalty.

Construction of word "State" or "United States."

Reenactment of sections 3167, 3172, 3173, 3176, Revised Statutes.

Officers or employees divulging information.

Canvass of districts.

Returns; authority to issue summons to appear and testify.

Collection of 100% and 50% additional to tax in case of failure to make return or of false or fraudulent return.

Receipts for taxes.

Jurisdiction.

General provisions extended and made applicable.

Porto Rico and the Philippine Islands.

Appropriation; officers and employees.

Articles coming into the United States from the Philippine Islands and articles going into the Philippine Islands from the United States.

Porto Rico.

Manufacture of articles intended for exportation in bonded warehouses.

Drawback.

Articles reimported.

Repeal in part of act of August 5, 1909; saving clause.

Refund of offers in compromise.

SECTION II.

Normal tax.

A. Subdivision 1. That there shall be levied, assessed, collected, and paid annually upon the entire net income arising or accruing from all sources in the preceding calendar year to every citizen of the United States, whether residing at home or abroad, and to every person residing in the United States, though not a citizen thereof, a tax of 1 per centum per annum upon such income, except as hereinafter provided; and a like tax shall be assessed, levied, collected, and paid annually upon the entire net income from all property owned, and of every business, trade, or profession carried on in the United States by persons residing elsewhere.

Act is not unconstitutional. (*Brushaber v. Union Pacific Co.*, 240 U. S., 1, T. D. 2290; *Dodge v. Brady*, 240 U. S., 123, T. D. 2302; *Tyee Realty Co. v. Anderson*, 240 U. S., 115, T. D. 2300; *Stanton v. Baltic Mining Co.*, 240 U. S., 103, T. D. 2303.)

Where an income tax law is doubtful, doubt should be resolved in favor of the taxpayer against the Government. (*Miller v. Gearin*, 258 Fed., 225.)

Commissions of general life insurance agent from renewal premiums on policies obtained by him and accepted in some year prior to "preceding calendar year" mentioned are taxable. (*Woods v. Lewellyn*, 252 Fed., 106.)

Statute can not be changed by regulations. (*Edwards v. Keith*, 231 Fed., 110.)

Tax is not laid on articles in course of exportation or on anything which inherently or by usages of commerce is embraced in exportation, but on the contrary is a general tax. (*Wm. E. Peck & Co. v. Lowe*, 247 U. S., 165; T. D. 2726.)

Section does not lay tax upon interest accruing on bonds executed by resident or citizen of United States when held and owned by nonresident foreigner. (30 Op. Atty. Gen., 230.)

Dividends accruing from stock of domestic corporation owned by non-resident aliens are not subject to tax. (30 Op. Atty. Gen., 273.)

Income received by nonresident alien from stocks and bonds of corporations organized under United States laws and mortgages and bonds secured upon property in United States, certificates representing same being held by domestic trust company, is property owned in United States. (*De Ganay v. Lederer*, 250 U. S., 376; T. D. 2876.)

"Residence" defined; who are nonresident alien individuals. (T. Ds. 2242, 2794.)

Accrued interest is deductible from gross income when shown as charge against accrued income upon the books of account kept on an accrued basis. (T. D. 2625.)

The general provisions of law, including laws in relation to collection and refund of tax, are applicable to the income tax law. (*Dodge v. Osborn*, 240 U. S., 118; T. D. 2301.)

Interest from bonds and dividends on stocks of domestic corporation owned by nonresident aliens held nontaxable. (T. D. 2162.)

Synopsis rulings. (T. Ds. 2090, 2135, 2137, 2152, 2161.)

Additional tax.

Subdivision 2. In addition to the income tax provided under this section (herein referred to as the normal income tax) there shall be levied, assessed, and collected upon the net income of every individual an additional income tax (herein referred to as the additional tax) of 1 per centum per annum upon the amount by which the total net income exceeds \$20,000 and does not exceed \$50,000, and 2 per centum per annum upon the amount by which the total net income exceeds \$50,000 and does not exceed \$75,000, 3 per centum per annum upon the amount by which the total net income exceeds \$75,000 and does not exceed \$100,000, 4 per centum per annum upon the amount by which the total net income exceeds \$100,000 and does not exceed \$250,000, 5 per centum per annum upon the amount by which the total net income exceeds \$250,000 and does not exceed \$500,000, and 6 per centum per annum upon the amount by which the total net income exceeds \$500,000. All the provisions of this section relating to individuals who are to be chargeable with the normal income tax, so far as they are applicable and are not inconsistent with this subdivision of paragraph A. shall apply to the levy, assessment, and collection of the additional tax imposed under this section.

Personal return; regulations.

Every person subject to this additional tax shall, for the purpose of its assessment and collection, make a personal return of his total net income from all sources, corporate or otherwise, for the preceding calendar year, under rules and regulations to be prescribed by the Commissioner of Internal Revenue and approved by the Secretary of the Treasury.

Instructions governing preparation of returns by farmers. (T. D. 2065.)

Holding companies; accumulation of profits beyond needs.

For the purpose of this additional tax the taxable income of any individual shall embrace the share to which he would be entitled of the gains and profits, if divided or distributed, whether divided or distributed or not, of all corporations, joint-stock companies, or associations however created or organized, formed, or fraudulently availed of for the purpose of preventing the imposition of such tax

through the medium of permitting such gains and profits to accumulate instead of being divided or distributed; and the fact that any such corporation, joint-stock company, or association is a mere holding company, or that the gains and profits are permitted to accumulate beyond the reasonable needs of the business, shall be prima facie evidence of a fraudulent purpose to escape such tax; but the fact that the gains and profits are in any case permitted to accumulate and become surplus shall not be construed as evidence of a purpose to escape the said tax in such case unless the Secretary of the Treasury shall certify that in his opinion such accumulation is unreasonable for the purposes of the business.

Statement of profits.

When requested by the Commissioner of Internal Revenue, or any district collector of internal revenue, such corporation, joint-stock company, or association shall forward to him a correct statement of such profits and the names of the individuals who would be entitled to the same if distributed.

Income defined.

B. That, subject only to such exemptions and deductions as are hereinafter allowed, the net income of a taxable person shall include gains, profits, and income derived from salaries, wages, or compensation for personal service of whatever kind and in whatever form paid, or from professions, vocations, businesses, trade, commerce, or sales, or dealings in property, whether real or personal, growing out of the ownership or use of or interest in real or personal property, also from interest, rent, dividends, securities, or the transaction of any lawful business carried on for gain or profit, or gains or profits and income derived from any source whatever, including the income from but not the value of property acquired by gift, bequest, devise, or descent:

Allmony not income and not subject to tax. (*Gould v. Gould*, 245 U. S., 151.)

Purpose of act was not to tax income accrued prior to March 1, 1913; income accrued in preceding taxable year excluded. (*Southern Pacific Co. v. Lowe*, 247 U. S., 330; T. D. 2730.)

Where corporation owns entire stock of subsidiary and is lessee of all its property, maintaining control of subsidiary's money and other property, dividends of subsidiary declared out of surplus which accrued prior to March 1, 1913, not taxable income of parent corporation. (*Id.*)

Taxable status of stock dividends paid on capital stock from current net earnings or established surplus created from earnings of corporations, etc., defined. (T. Ds. 2163, 2274.)

Under paragraphs B, D, and G, member of partnership need not include as part of net income that part derived from or through partnership which has been received by firm as dividends on stocks owned by it in corporations taxable on their net income. (*United States v. Coulby*, 251 Fed., 982; affirmed, 258 Fed., 27.)

Under Sixteenth Amendment to Constitution, Congress may tax as income, without apportionment, everything that became income in the ordinary sense of the word after adoption of the amendment. (*Lynch v. Hornby*, 247 U. S., 339; T. D. 2731; *Brushaber v. Union Pacific Railroad*, 240 U. S., 1; T. D. 2290.)

Individual stockholder is subject to additional tax on dividends declared and paid by corporation in ordinary course of business after taking effect of act, whether from current earnings or from accumulated

surplus made up of past earnings or increase in value of corporate assets, notwithstanding surplus accrued to corporation in whole or in part prior to March 1, 1913. (*Lynch v. Hornby*, 247 U. S., 839; T. D. 2731.)

Act of September 8, 1916, and act of October 3, 1917, in excluding dividends declared out of earnings or profits that accrued prior to March 1, 1913, not intended to be declaratory of the meaning of "dividends" in the 1913 act. (*Id.*)

Stock dividends declared in 1914 from profits accrued before January 1, 1913, do not constitute taxable income to recipients. (*Towne v. Eisner*, 245 U. S., 418; T. D. 2634; reversing 242 Fed., 702; T. D. 2506.)

Earnings and surplus of subsidiary corporations used as capital prior to January 1, 1913, are not taxable income of holding company when formally transferred to it as dividends. (*Gulf Oil Corporation v. Lewellyn*, 248 U. S., 71; T. D. 2783.)

"Income" means the flow of capital's service, and is not synonymous with receipts. (*United States v. Guggenheim Exploration Co.*, 238 Fed., 281.)

Dividend declared and paid by going corporation, partly in cash and partly in assets of the corporation, is subject to tax when received by individual taxpayer, although declared from surplus which was in part accumulated before March 1, 1913. (*Peabody v. Eisner*, 247 U. S., 847; T. D. 2732.)

Life insurance agent held liable on commissions on renewal premiums on policies issued before act was adopted. (*Edwards v. Keith*, 231 Fed., 110.)

Liability in connection with quarters, mileage, reimbursement for actual expenses, etc., furnished or paid by Government to officers and employees. (T. D. 2079.)

Taxability of commissions on renewal premiums for insurance. (T. D. 2011.)

The tax on the product of a mine is not a tax upon property as such because of its ownership, but a true excise levied on the results of business of carrying on mining operations. (*Stanton v. Baltic Mining Co.*, 240 U. S., 103; T. D. 2303.)

Proceeds of life insurance policies exempt.

Provided, That the proceeds of life insurance policies paid upon the death of the person insured or payments made by or credited to the insured, on life insurance, endowment, or annuity contracts, upon the return thereof to the insured at the maturity of the term mentioned in the contract, or upon surrender of contract, shall not be included as income.

Deductions.

That in computing net income for the purpose of the normal tax there shall be allowed as deductions: First, the necessary expenses actually paid in carrying on any business, not including personal, living, or family expenses; second, all interest paid within the year by a taxable person on indebtedness; third, all national, State, county, school, and municipal taxes paid within the year, not including those assessed against local benefits; fourth, losses actually sustained during the year, incurred in trade or arising from fires, storms, or shipwreck, and not compensated for by insurance or otherwise; fifth, debts due to the taxpayer actually ascertained to be worthless and charged off within the year; sixth, a reasonable allowance for the exhaustion, wear and tear of property arising out of its use or employment in the business, not to exceed, in the case of mines, 5 per centum of the gross value at the mine of the output for the year for which the computation is made, but no deduction shall be made for any amount of expense of restoring property or making good the

exhaustion thereof for which an allowance is or has been made: *Provided*, That no deduction shall be allowed for any amount paid out for new buildings, permanent improvements, or betterments, made to increase the value of any property or estate; seventh, the amount received as dividends upon the stock or from the net earnings of any corporation, joint-stock company, association, or insurance company which is taxable upon its net income as hereinafter provided; eighth, the amount of income, the tax upon which has been paid or withheld for payment at the source of the income, under the provisions of this section, provided that whenever the tax upon the income of a person is required to be withheld and paid at the source as hereinafter required, if such annual income does not exceed the sum of \$3,000 or is not fixed or certain, or is indefinite, or irregular as to amount or time of accrual, the same shall not be deducted in the personal return of such person.

Depreciation allowed does not include shrinkage in value of stocks, bonds, etc. (T. D. 2005.)

Loss of value of corporate stock held loss incurred in trade. (*Bryce v. Keith*, 257 Fed., 133.)

"Exhaustion, wear, and tear" contemplate only depreciation of physical property itself. (*Cohen v. Lowe*, 234 Fed., 474; T. D. 2343.)

Allowance made for depreciation; no deduction allowed for expense of restoring building. (Id.)

Designation of losses which are deductible from gross income within a taxable year. (T. D. 1989.)

Instructions and rules for determining what amount is to be allowed as a deduction for loss in a return of income. Depreciation allowed by law does not include shrinkage in value of stocks, bonds, etc. (T. D. 2005.)

Income from farm products and crop-share rentals to be included in the return of income for the year in which sold or exchanged for money or a money equivalent. (T. D. 2153.)

Bad debts which, if collected, would constitute income in their entirety are not deductible in a return of annual net income unless the amount of such items has been entered on the books of the taxpayer as income and such entry has been made within the year for which such amount is sought to be deducted as a bad debt. (T. D. 2201; see T. D. 2224.)

Depreciation not allowed fiduciaries as a deduction from gross income in cases where no depreciation reserve is maintained, but the amount claimed as a deduction for depreciation is paid to the beneficiary as income. (T. D. 2267.)

Tax imposed by laws of New York upon transfer of property by will or under intestate laws is not deductible in ascertaining net income of legatee or distributee; it is not a "tax" within the meaning of provision permitting deduction of "all national, State, county, school, and municipal taxes paid within the year." (*Prentiss v. Eisner*, 260 Fed., 539; T. D. 2933.)

Persons residing abroad.

The net income from property owned and business carried on in the United States by persons residing elsewhere shall be computed upon the basis prescribed in this paragraph and that part of paragraph G of this section relating to the computation of the net income of corporations, joint-stock and insurance companies, organized, created, or existing under the laws of foreign countries, in so far as applicable.

Interest on State and United States bonds to be excluded.

That in computing net income under this section there shall be excluded the interest upon the obligations of a State or any political

subdivision thereof, and upon the obligations of the United States or its possessions; also the compensation of the present President of the United States during the term for which he has been elected, and of the judges of the supreme and inferior courts of the United States now in office, and the compensation of all officers and employees of a State or any political subdivision thereof except when such compensation is paid by the United States Government.

Interest upon obligations of the United States or its possessions, or of any State, county, city, or any other political subdivision thereof, is not subject to income tax. (T. D. 1892.)

Special assessment districts created under the laws of the several States for public purposes, such as the improvement of streets and public highways, the provision of sewerage, gas, and light, and the reclamation, drainage, or irrigation of bodies of land, and levee and school districts are held to be political subdivisions of a State. (T. D. 1946.)

Additional exemption in the case of married persons.

C. That there shall be deducted from the amount of the net income of each of said persons, ascertained as provided herein, the sum of \$3,000, plus \$1,000 additional if the person making the return be a married man with a wife living with him, or plus the sum of \$1,000 additional if the person making the return be a married woman with a husband living with her; but in no event shall this additional exemption of \$1,000 be deducted by both a husband and a wife: *Provided*, That only one deduction of \$4,000 shall be made from the aggregate income of both husband and wife when living together.

Regulations regarding the specific deduction relative to the returns of husband and wife. (T. D. 1923.)

Time for computing tax; returns.

D. The said tax shall be computed upon the remainder of said net income of each person subject thereto, accruing during each preceding calendar year ending December thirty-first: *Provided, however*, That for the year ending December thirty-first, nineteen hundred and thirteen, said tax shall be computed on the net income accruing from March first to December thirty-first, nineteen hundred and thirteen, both dates inclusive, after deducting five-sixths only of the specific exemptions and deductions herein provided for. On or before the first day of March, nineteen hundred and fourteen, and the first day of March in each year thereafter, a true and accurate return, under oath or affirmation, shall be made by each person of lawful age, except as hereinafter provided, subject to the tax imposed by this section, and having a net income of \$3,000 or over for the taxable year, to the collector of internal revenue for the district in which such person resides or has his principal place of business, or, in the case of a person residing in a foreign country, in the place where his principal business is carried on within the United States, in such form as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe, setting forth specifically the gross amount of income from all separate sources and from the total thereof, deducting the aggregate items or expenses and allowance herein authorized; guardians, trustees, executors, administrators, agents, receivers, conservators, and all persons, corporations, or associations acting in any fiduciary capacity, shall

make and render a return of the net income of the person for whom they act, subject to this tax, coming into their custody or control and management, and be subject to all the provisions of this section which apply to individuals: *Provided*, That a return made by one of two or more joint guardians, trustees, executors, administrators, agents, receivers, and conservators, or other persons acting in a fiduciary capacity, filed in the district where such person resides, or in the district where the will or other instrument under which he acts is recorded, under such regulations as the Secretary of the Treasury may prescribe, shall be a sufficient compliance with the requirements of this paragraph.

Retroactivity of act to March 1, 1913, a date not prior to adoption of sixteenth amendment to the Constitution, is permissible. (*Brushaber v. Union Pacific Railroad*, 240 U. S., 1 T. D. 2290; *Lynch v. Hornby*, 247 U. S. 339; T. D. 2731. 236 Fed., 661, reversed.)

Where capital assets of corporation increased in value prior to March 1, 1913, and a single and final dividend was made in liquidation of entire assets in 1914, without further appreciation or addition to the assets having occurred, no part of the dividend received by a stockholder is taxable under this act. (*Lynch v. Turrish*, 227 U. S., 221; T. D. 2729.)

Income of person dying on July 22, 1913, is subject to tax, as the tax is against citizens or residents of the United States personally and not against property. (*Brady v. Anderson*, 240 U. S., 665; T. D. 2494.)

Evident purpose of act to refrain from taxing income that accrued prior to March 1, 1913, and to exclude from consideration in making computation of taxable income any income that accrued in the preceding taxable year. (*Southern Pacific Co. v. Lowe*, 247 U. S., 330; T. D. 2730.)

Supplemental regulations designating guardians, trustees, executors, administrators, agents, etc., as the "source" for purpose of collecting income tax and as to making annual and list returns and withholding tax. (T. D. 1906.)

Individuals whose net income from March 1 to December 31, 1913, both dates inclusive, is \$2,500 or more must make returns of annual net income for 1913. (T. D. 1934.)

Instructions to collectors relative to fiduciaries and returns to be made by them on Form 1041. (T. D. 1943.)

Extending T. D. 1945 to cover returns made by fiduciaries in their fiduciary capacity. (T. D. 1947.)

Time for filing returns of income and penalties in connection therewith. (T. D. 1950.)

Firms, companies, corporations, etc., to withhold tax and make return.

And also all persons, firms, companies, copartnerships, corporations, joint-stock companies or associations, and insurance companies, except as hereinafter provided, in whatever capacity acting, having the control, receipt, disposal, or payment of fixed or determinable annual or periodical gains, profits, and income of another person subject to tax, shall in behalf of such person deduct and withhold from the payment an amount equivalent to the normal income tax upon the same and make and render a return, as aforesaid, but separate and distinct, of the portion of the income of each person from which the normal tax has been thus withheld, and containing also the name and address of such person or stating that the name and address or the address, as the case may be, are unknown: *Provided*, That the provision requiring the normal tax of individuals to be withheld at the source of the income shall not be construed to require any of such tax to be withheld prior to the first day of November, nineteen hundred and thirteen: *Provided further*, That in

either case above mentioned no return of income not exceeding \$3,000 shall be required.

Regulations regarding deduction of income tax at source on interest maturing on bonds, notes, and similar obligations of corporations, joint-stock companies or associations, and insurance companies. (T. D. 1887.)

Forms of certificates of ownership. (T. Ds. 1976, 2325.)

How tax shall be collected when such notes before their maturity shall have been sold by the payee or recipient or shall have been discounted with banks. (T. D. 1891.)

Income tax on the interest on bank deposits and bank certificates of deposit not to be withheld at the source. (T. D. 1893.)

Collection at the source of income tax from certain municipal district or local bonds and other obligations. (T. D. 1922.)

Amendment of regulations requiring return and payment of tax by fiduciaries under trust estates. (T. Ds. 2231, 2289.)

Partnership tax.

Provided further, That any persons carrying on business in partnership shall be liable for income tax only in their individual capacity, and the share of the profits of a partnership to which any taxable partner would be entitled if the same were divided, whether divided or otherwise, shall be returned for taxation and the tax paid, under the provisions of this section, and any such firm, when requested by the Commissioner of Internal Revenue, or any district or collector, shall forward to him a correct statement of such profits and the names of the individuals who would be entitled to the same if distributed.

Supplemental regulations relative to partnerships. (T. D. 1905.)

Partnerships are not subject to income tax, but are required to file certificates of ownership of bonds, etc., in connection with coupon and registered interest payments to prevent withholding of their income at the source. (T. D. 1957.)

Income received from partnership can not be traced to source beyond partnership for purpose of claiming individual exemption. (T. D. 2337.)

Return not required of income from dividends of taxable corporations.

Provided further, That persons liable for the normal income tax only, on their own account or in behalf of another, shall not be required to make return of the income derived from dividends on the capital stock or from the net earnings of corporations, joint-stock companies or associations, and insurance companies taxable upon their net income as hereinafter provided. Any person for whom return has been made and the tax paid, or to be paid as aforesaid, shall not be required to make a return unless such person has other net income, but only one deduction of \$3,000 shall be made in the case of any such person. The collector or deputy collector shall require every list to be verified by the oath or affirmation of the party rendering it.

Regulations relative to exclusion of income derived from dividends or net earnings of corporations, joint-stock companies or associations, and insurance companies by persons subject to the normal tax only in computing their net income for the taxable year. (T. D. 1945.)

Taxable status of dividends paid on the capital stock from the current net earnings or established surplus created from the net earnings of corporations, joint-stock companies or associations, and insurance companies taxable upon their net income. (T. D. 2048.)

Understatements; appeal from collector.

If the collector or deputy collector have reason to believe that the amount of any income returned is understated, he shall give due notice to the person making the return to show cause why the amount of the return should not be increased, and upon proof of the amount understated may increase the same accordingly. If dissatisfied with the decision of the collector, such person may submit the case, with all the papers, to the Commissioner of Internal Revenue for his decision, and may furnish sworn testimony of witnesses to prove any relevant facts.

Assessments, notice of, payment of; return by Commissioner within three years.

E. That all assessments shall be made by the Commissioner of Internal Revenue and all persons shall be notified of the amount for which they are respectively liable on or before the first day of June of each successive year, and said assessments shall be paid on or before the thirtieth day of June, except in cases of refusal or neglect to make such return and in cases of false or fraudulent returns, in which cases the Commissioner of Internal Revenue shall, upon the discovery thereof, at any time within three years after said return is due, make a return upon information obtained as provided for in this section or by existing law, and the assessment made by the Commissioner of Internal Revenue thereon shall be paid by such person or persons immediately upon notification of the amount of such assessment.

Assessment of tax for 1913 in May, 1915, was in time if return was "false," which does not mean "fraudulent," but merely untrue or incorrect. (*Woods v. Lewellyn*, 252 Fed., 106.)

Five per cent penalty and interest.

And to any sum or sums due and unpaid after the thirtieth day of June in any year, and for ten days after notice and demand thereof by the collector, there shall be added the sum of 5 per centum on the amount of tax unpaid, and interest at the rate of 1 per centum per month upon said tax from the time the same became due, except from the estates of insane, deceased, or insolvent persons.

See T. D. 2679, repealing T. D. 2028.

Demand and notice held to apply in case of delinquents where their returns are filed prior to date on which taxes are to be paid in ordinary course. (T. D. 2003.)

Notice of and demand for assessed taxes to be issued promptly to secure tax lien, penalty, and interest in case of nonpayment. (T. D. 1905.)

Collection of tax at the source.

All persons, firms, copartnerships, companies, corporations, joint-stock companies or associations, and insurance companies, in whatever capacity acting, including lessees or mortgagors of real or personal property, trustees acting in any trust capacity, executors, administrators, agents, receivers, conservators, employers, and all officers and employees of the United States having the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities, compensation, remuneration, emoluments, or other fixed or determinable annual gains, profits, and income of another person, exceeding \$3,000 for any taxable year, other than dividends

on capital stock, or from the net earnings of corporations and joint-stock companies or associations subject to like tax, who are required to make and render a return in behalf of another, as provided herein, to the collector of his, her, or its district, are hereby authorized and required to deduct and withhold from such annual gains, profits, and income such sum as will be sufficient to pay the normal tax imposed thereon by this section, and shall pay to the officer of the United States Government authorized to receive the same; and they are each hereby made personally liable for such tax. In all cases where the income tax of a person is withheld and deducted and paid or to be paid at the source, as aforesaid, such person shall not receive the benefit of the deduction and exemption allowed in paragraph C of this section except by an application for refund of the tax unless he shall, not less than thirty days prior to the day on which the return of his income is due, file with the person who is required to withhold and pay tax for him, a signed notice in writing claiming the benefit of such exemption, and thereupon no tax shall be withheld upon the amount of such exemption.

Regulations regarding deduction of income tax at source on interest maturing on bonds, notes, and similar obligations of corporations, joint-stock companies or associations, and insurance companies. (T. D. 1887.)

Provisions for collecting tax at source do not deny due process of law. (*Brushaber v. Union Pacific Railroad*, 240 U. S., 1; T. D. 2290.)

Regulations regarding the deduction of the income tax at the source on income other than interest maturing on bonds, notes, and other similar obligations of corporations, joint-stock companies or associations, and insurance companies. (T. D. 1890.)

How tax shall be collected when such notes before their maturity shall have been sold by the payee or recipient, or shall have been discounted with banks. (T. D. 1891.)

Income tax ruling as to how and by whom certificates of ownership may be signed in cases where bonds of corporations, joint-stock companies or associations, and insurance companies are owned by nonresident aliens. (T. D. 1894.)

Regulations permitting the substitution, under certain conditions, of the certificates of banks, bankers, or other collecting agents, for the certificates of the owners required to be attached to interest coupons when presented for collection, under income tax regulations of October 25, 1913, and those supplementary thereto. (T. D. 1903.)

Supplemental regulations relative to duly authorized agent's authority to sign certificates of ownership which accompany coupons or registered interest orders when presented for collection. (T. D. 1904.)

Supplemental regulations designating guardians, trustees, executors, administrators, agents, etc., as the "source" for purpose of collecting income tax and as to making annual and list returns and withholding tax. (T. D. 1906.)

Supplemental instructions as to acceptance of certificate Form 1000 as originally prescribed in regulations of October 25, 1913; and the original and amended Form 1000 as it has been adapted to the use of fiduciary agents; and certificate Forms 1001, 1003, and 1004, as they have been adapted to the use of foreign organizations and partnerships. (T. D. 1907.)

Supplemental regulations prescribing forms of certificates to be attached to interest coupons in cases where the collecting agent's certificate is substituted for the certificate of the owners. (T. D. 1915.)

Certificates of ownership heretofore executed, or which may hereafter be executed, by the owners of bonds, etc., or their duly authorized agents, need not be signed with the full Christian name of the owner or agent, but the said owner or agent may use his ordinary or usual business signature. (T. D. 1920.)

False statement; penalty.

Provided, That if any person, for the purpose of obtaining any allowance or reduction by virtue of a claim for such exemption, either for himself or for any other person, knowingly makes any false statement or false or fraudulent representation, he shall be liable to a penalty of \$300; nor shall any person under the foregoing conditions be allowed the benefit of any deduction provided for in subsection B of this section unless he shall, not less than thirty days prior to the day on which the return of his income is due, either file with the person who is required to withhold and pay tax for him a true and correct return of his annual gains, profits, and income from all other sources, and also the deductions asked for, and the showing thus made shall then become a part of the return to be made in his behalf by the person required to withhold and pay the tax, or likewise make application for deductions to the collector of the district in which return is made or to be made for him.

Returns for minors, insane persons, and absentees.

Provided further, That if such person is a minor or an insane person, or is absent from the United States, or is unable owing to serious illness to make the return and application above provided for, the return and application may be made for him or her by the person required to withhold and pay the tax, he making oath under the penalties of this act that he has sufficient knowledge of the affairs and property of his beneficiary to enable him to make a full and complete return for him or her, and that the return and application made by him are full and complete.

Tax to be withheld from interest on bonds.

Provided further, That the amount of the normal tax hereinbefore imposed shall be deducted and withheld from fixed and determinable annual gains, profits, and income derived from interest upon bonds and mortgages, or deeds of trust or other similar obligations of corporations, joint-stock companies or associations, and insurance companies, whether payable annually or at shorter or longer periods, although such interest does not amount to \$3,000, subject to the provisions of this section requiring the tax to be withheld at the source and deducted from annual income and paid to the Government;

Withholding tax from interest on foreign bonds.

and likewise the amount of such tax shall be deducted and withheld from coupons, checks, or bills of exchange for or in payment of interest upon bonds of foreign countries and upon foreign mortgages or like obligations (not payable in the United States), and also from coupons, checks, or bills of exchange for or in payment of any dividends upon the stock or interest upon the obligations of foreign corporations, associations, and insurance companies engaged in business in foreign countries; and the tax in each case shall be withheld and deducted for and in behalf of any person subject to the tax hereinbefore imposed, although such interest, dividends, or other compensation does not exceed \$3,000, by any banker or person who shall sell or otherwise realize coupons, checks, or bills of ex-

change drawn or made in payment of any such interest or dividends (not payable in the United States), and any person who shall obtain payment (not in the United States), in behalf of another of such dividends and interest by means of coupons, checks, or bills of exchange, and also any dealer in such coupons who shall purchase the same for any such dividends or interest (not payable in the United States), otherwise than from a banker or another dealer in such coupons; but in each case the benefit of the exemption and the deduction allowable under this section may be had by complying with the foregoing provisions of this paragraph.

Regulations. (T. D. 1887.)

In all cases where a temporary certificate, Form 1005, was attached to interest coupons as provided by T. D. 1887, income tax will be assessed on amount of interest represented by such certificate unless the debtor corporation shall furnish satisfactory evidence that the owner of the coupons is not subject to withholding at source or not subject to the income tax. (T. D. 2190.)

License to engage in business of collecting foreign payments.

All persons, firms, or corporations undertaking as a matter of business or for profit the collection of foreign payments of such interest or dividends by means of coupons, checks, or bills of exchange shall obtain a license from the Commissioner of Internal Revenue, and shall be subject to such regulations enabling the Government to ascertain and verify the due withholding and payment of the income tax required to be withheld and paid as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe; and any person who shall knowingly undertake to collect such payments as aforesaid without having obtained a license therefor, or without complying with such regulations, shall be deemed guilty of a misdemeanor and for each offense be fined in a sum not exceeding \$5,000, or imprisoned for a term not exceeding one year, or both, in the discretion of the court.

License required for collection of income received from foreign countries. Supplemental regulations as to making application, filing bond, and issuing license to collecting agencies of income from foreign countries. (T. D. 1909.)

Contracts; returns; regulations.

Nothing in this section shall be construed to release a taxable person from liability for income tax, nor shall any contract entered into after this Act takes effect be valid in regard to any Federal income tax imposed upon a person liable to such payment.

The tax herein imposed upon annual gains, profits, and income not falling under the foregoing and not returned and paid by virtue of the foregoing shall be assessed by personal return under rules and regulations to be prescribed by the Commissioner of Internal Revenue and approved by the Secretary of the Treasury.

Deduction at source applies to normal tax only.

The provisions of this section relating to the deduction and payment of the tax at the source of income shall only apply to the normal tax hereinbefore imposed upon individuals.

Penalty for neglect or refusal to make return or for making false or fraudulent return.

F. That if any person, corporation, joint-stock company, association, or insurance company liable to make the return or pay the tax aforesaid shall refuse or neglect to make a return at the time or times hereinbefore specified in each year, such person shall be liable to a penalty of not less than \$20 nor more than \$1,000. Any person or any officer of any corporation required by law to make, render, sign, or verify any return who makes any false or fraudulent return or statement with intent to defeat or evade the assessment required by this section to be made shall be guilty of a misdemeanor, and shall be fined not exceeding \$2,000 or be imprisoned not exceeding one year, or both, at the discretion of the court, with the costs of prosecution.

Tax on corporations.

G. (a) That the normal tax hereinbefore imposed upon individuals likewise shall be levied, assessed, and paid annually upon the entire net income arising or accruing from all sources during the preceding calendar year to every corporation, joint-stock company or association, and every insurance company, organized in the United States, no matter how created or organized, not including partnerships; but if organized, authorized, or existing under the laws of any foreign country, then upon the amount of net income accruing from business transacted and capital invested within the United States during such year.

What acts of foreign company constitute doing business in United States. (*Laurentide Co. (Ltd.) v. Durey*, 231 Fed., 223; T. D. 2346.)

Where trustees hold shares of stock and real estate subject to lease and do no business other than collecting dividends and rents, trust not taxable as joint-stock association, but trustee and *cestui que trust* are to be treated as fiduciaries and beneficiaries. (*Crocker v. Malley*, 249 U. S., 223; T. D. 2816.)

Partnership formed in Hawaii by several corporations not treated as joint-stock association. (*Halku Sugar Co. v. Johnstone*, 249 Fed., 103.)

Dividends paid by lessee corporation directly to stockholders of lessor corporation constitutes income of lessor. (*West End Street Railway Co. v. Malley*, 246 Fed., 625; T. D. 2620.)

Annual dividend on stock of another corporation subject to tax for calendar year in which declared and paid, although half of profits out of which paid accrued prior to passage of 1913 act. (*Skinner v. Union Pacific Coal Co.*, 249 Fed., 152.)

Corporation liable to tax, though engaged in no business, deriving all income as rent from its property. (*Rensselaer & Saratoga Railroad Co. v. Irwin*, 249 Fed., 726.)

Railroad company leasing property for life of franchise, rental to be paid as interest and fixed dividend direct to stockholders is subject to tax on such rental. (*Northern Railroad Co. of New Jersey v. Lowe*, 250 Fed., 856.)

Bonds of foreign corporations payable, as to interest, wholly within United States or within or without United States, at option of owner of bonds, to be treated for income-tax purposes as domestic bonds when accompanied by certificates of ownership properly executed. (T. D. 1992.)

Cooperative dairies and like organizations held not exempt. (T. D. 1996.)

Definition of "foreign corporation" and "fiscal agent" as used in T. D. 1992, and further explanation of handling collection of income from bonds of such foreign corporations and foreign countries having fiscal agents in the United States. (T. D. 2006.)

Synopsis of rulings on questions relating to income tax. (T. Da. 2090, 2161.)

Receivers are not subject to tax on net earnings of an insolvent railroad operated by them. (*Equitable Trust Co. of N. Y. v. Western Pac. Ry. Co.*, 236 Fed. 813.)

Organizations exempt.

Provided, however, That nothing in this section shall apply to labor, agricultural, or horticultural organizations, or to mutual savings banks not having a capital stock represented by shares, or to fraternal beneficiary societies, orders, or associations operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and providing for the payment of life, sick, accident, and other benefits to the members of such societies, orders, or associations and dependents of such members, nor to domestic building and loan associations, nor to cemetery companies, organized and operated exclusively for the mutual benefit of their members, nor to any corporation or association organized and operated exclusively for religious, charitable, scientific, or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual, nor to business leagues, nor to chambers of commerce or boards of trade, not organized for profit or no part of the net income of which inures to the benefit of the private stockholder or individual; nor to any civic league or organization not organized for profit, but operated exclusively for the promotion of social welfare.

District court has jurisdiction of action by stockholder against corporation to enjoin voluntary payment of tax on ground of unconstitutionality. (*Stanton v. Baltic Mining Co.*, 240 U. S., 103; T. D. 2303.)

Mutual telephone companies, mutual insurance companies, and like organizations whose status, under the law, is not dependent upon whether or not they are organized for profit, and not being specifically enumerated as exempt, must make returns of annual net income. (T. D. 1933.)

Organizations, etc., exempted by first proviso of paragraph G from payment of income tax, are not subject to provisions of income-tax law as withholding agents. (T. D. 1967.)

Cooperative dairies and like organizations held not exempt. (T. D. 1996.)

Income derived from public utility or governmental function.

Provided further, That there shall not be taxed under this section any income derived from any public utility or from the exercise of any essential governmental function accruing to any State, Territory, or the District of Columbia, or any political subdivision of a State, Territory, or the District of Columbia, nor any income accruing to the government of the Philippine Islands or Porto Rico, or of any political subdivision of the Philippine Islands or Porto Rico: *Provided,* That whenever any State, Territory, or the District of Columbia, or any political subdivision of a State or Territory, has, prior to the passage of this act, entered in good faith into a contract with any person or corporation the object and purposes of which is to acquire, construct, operate, or maintain a public utility, no tax shall be levied under the provisions of this act upon the income derived from the operation of such public utility, so far as the payment thereof will impose a loss or burden upon such State, Territory, or the District of Columbia, or a political subdivision of a State or Territory;

but this provision is not intended to confer upon such person or corporation any financial gain or exemption or to relieve such person or corporation from the payment of a tax as provided for in this section upon the part or portion of the said income to which such person or corporation shall be entitled under such contract.

Irrigation and reclamation assessment districts are not political subdivisions of the State nor are they public utilities exercising any essential governmental functions accruing to any State or Territory, within the meaning of the law; interest or income from bonds or other obligations of such districts is not exempt from the income tax. (T. D. 1910.)

Deductions allowed.

(b) Such net income shall be ascertained by deducting from the gross amount of the income of such corporation, joint-stock company or association, or insurance company, received within the year from all sources, (first) all the ordinary and necessary expenses paid within the year in the maintenance and operation of its business and properties, including rentals or other payments required to be made as a condition to the continued use or possession of property; (second) all losses actually sustained within the year and not compensated by insurance or otherwise, including a reasonable allowance for depreciation by use, wear and tear of property, if any; and in the case of mines a reasonable allowance for depletion of ores and all other natural deposits, not to exceed 5 per centum of the gross value at the mine of the output for the year for which the computation is made; and in case of insurance companies the net addition, if any, required by law to be made within the year to reserve funds and the sums other than dividends paid within the year on policy and annuity contracts.

Depreciation allowed by law does not include shrinkage in value of stocks, bonds, etc. (T. D. 2005.)

None of the cash dividends paid by a life insurance company to its policy holders which represent redundancies in previous premium payments are deductible from gross income as "sums other than dividends paid within the year on policy * * * contracts." (*Lederer v. Penn Mutual Life Insurance Co.*, 258 Fed., 81; T. D. 2899.)

Tax is not equivalent to one on gross product of mines, owing to inadequacy of allowance for depreciation of ore body, but is true excise levied on result of business of carrying on mining operations. (*Stanton v. Baltic Mining Co.*, 240 U. S., 103; T. D. 2303.)

Instructions and rules for determining what amount is to be allowed as a deduction for loss in a return of income. Depreciation allowed by law does not include shrinkage in value of stocks, bonds, etc. (T. D. 2005.)

Gain or loss resulting from the sale of capital assets and apportioned to the years subsequent to January 1, 1909, should be increased or decreased accordingly as there was gain or loss by the amount of depreciation charged off since January 1, 1909, and not used to make good such depreciation. (T. D. 2077.)

Mutual fire insurance companies; premium deposits.

Provided, That mutual fire insurance companies requiring their members to make premium deposits to provide for losses and expenses shall not return as income any portion of the premium deposits returned to their policyholders, but shall return as taxable income all income received by them from all other sources plus such portions of the premium deposits as are retained by the companies for purposes other than the payment of losses and expenses and reinsurance reserves.

Mutual marine insurance companies; life insurance companies.

Provided further, That mutual marine insurance companies shall include in their return of gross income gross premiums collected and received by them less amounts paid for reinsurance, but shall be entitled to include in deductions from gross income amounts repaid to policyholders on account of premiums previously paid by them and interest paid upon such amounts between the ascertainment thereof and the payment thereof, and life insurance companies shall not include as income in any year such portion of any actual premium received from any individual policyholder as shall have been paid back or credited to such individual policyholder, or treated as an abatement of premium of such individual policyholder, within such year.

Life insurance company may not exclude from its total income, for purpose of ascertaining gross income, any dividends paid or credited to policyholders from whom it did not receive any premium during the year; as to policyholders from whom premiums were received it may exclude only such part of the dividends paid as did not exceed amount received from them, respectively, by way of premiums. (*Lederer v. Penn Mutual Life Insurance Co.*, 258 Fed., 81; T. D. 2800.)

(Third) The amount of interest accrued and paid within the year on its indebtedness to an amount of such indebtedness not exceeding one-half of the sum of its interest-bearing indebtedness and its paid-up capital stock outstanding at the close of the year, or if no capital stock, the amount of interest paid within the year on an amount of its indebtedness not exceeding the amount of capital employed in the business at the close of the year: *Provided*, That in case of indebtedness wholly secured by collateral the subject of sale in ordinary business of such corporation, joint-stock company, or association, the total interest secured and paid by such company, corporation, or association within the year on any such indebtedness may be deducted as a part of its expense of doing business: *Provided further*, That in the case of bonds or other indebtedness, which have been issued with a guaranty that the interest payable thereon shall be free from taxation, no deduction for the payment of the tax herein imposed shall be allowed; and in the case of a bank, banking association, loan or trust company, interest paid within the year on deposits or on moneys received for investment and secured by interest-bearing certificates of indebtedness issued by such bank, banking association, loan or trust company; (fourth) all sums paid by it within the year for taxes imposed under the authority of the United States or of any State or Territory thereof, or imposed by the Government of any foreign country.

Corporations are allowed by law to deduct interest actually accrued and paid within the year on an amount not in excess of paid-up capital stock outstanding at the close of the year plus one-half the interest-bearing indebtedness then also outstanding. (T. D. 1960.)

Interest paid on indebtedness wholly secured by collateral the subject of sale in the ordinary business of a corporation may be deducted as a part of its expenses of doing business. (T. D. 1993.)

Interest paid on mortgage indebtedness not assumed by corporation is deductible as payment required to be made as condition to continued use or possession of property. (T. D. 2787.)

Foreign corporations doing business in United States; deductions allowed.

Provided, That in the case of a corporation, joint-stock company or association, or insurance company, organized, authorized, or existing under the laws of any foreign country, such net income shall be ascertained by deducting from the gross amount of its income accrued within the year from business transacted and capital invested within the United States, (first) all the ordinary and necessary expenses actually paid within the year out of earnings in the maintenance and operation of its business and property within the United States, including rentals or other payments required to be made as a condition to the continued use or possession of property; (second) all losses actually sustained within the year in business conducted by it within the United States and not compensated by insurance or otherwise, including a reasonable allowance for depreciation by use, wear and tear of property, if any, and in the case of mines a reasonable allowance for depletion of ores and all other natural deposits, not to exceed 5 per centum of the gross value at the mine of the output for the year for which the computation is made; and in case of insurance companies the net addition, if any, required by law to be made within the year to reserve funds and the sums other than dividends paid within the year on policy and annuity contracts:

Instructions and rules for determining what amount is to be allowed as a deduction for loss in a return of income. Depreciation allowed by law does not include shrinkage in value of stocks, bonds, etc. (T. D. 2005.)

Provided further, That mutual fire insurance companies requiring their members to make premium deposits to provide for losses and expenses shall not return as income any portion of the premium deposits returned to their policyholders, but shall return as taxable income all income received by them from all other sources plus such portions of the premium deposits as are retained by the companies for purposes other than the payment of losses and expenses and reinsurance reserves: *Provided further*, That mutual marine insurance companies shall include in their return of gross income gross premiums collected and received by them less amounts paid for reinsurance, but shall be entitled to include in deductions from gross income amounts repaid to policyholders on account of premiums previously paid by them, and interest paid upon such amounts between the ascertainment thereof and the payment thereof and life insurance companies shall not include as income in any year such portion of any actual premium received from any individual policyholder as shall have been paid back or credited to such individual policyholder, or treated as an abatement of premium of such individual policyholder, within such year.

(Third) the amount of interest accrued and paid within the year on its indebtedness to an amount of such indebtedness not exceeding the proportion of one-half of the sum of its interest bearing indebtedness and its paid-up capital stock outstanding at the close of the year, or if no capital stock, the capital employed in the business at the close of the year which the gross amount of its income for the year from business transacted and capital invested within the United States bears to the gross amount of its income derived from all sources within and without the United States: *Provided*, That in the case of bonds or other indebtedness which have been

issued with a guaranty that the interest payable thereon shall be free from taxation, no deduction for the payment of the tax herein imposed shall be allowed; (fourth) all sums paid by it within the year for taxes imposed under the authority of the United States or of any State or Territory thereof or the District of Columbia.

Assessment insurance companies.

In the case of assessment insurance companies, whether domestic or foreign, the actual deposit of sums with State or Territorial officers, pursuant to law, as additions to guarantee or reserve funds shall be treated as being payments required by law to reserve funds.

Tax; how computed; calendar year.

(c) The tax herein imposed shall be computed upon its entire net income accrued within each preceding calendar year ending December thirty-first: *Provided, however*, That for the year ending December thirty-first, nineteen hundred and thirteen, said tax shall be imposed upon its entire net income accrued within that portion of said year from March first to December thirty-first, both dates inclusive, to be ascertained by taking five-sixths of its entire net income for said calendar year: *Provided further*, That any corporation, joint-stock company or association, or insurance company subject to this tax may designate the last day of any month in the year as the day of the closing of its fiscal year and shall be entitled to have the tax payable by it computed upon the basis of the net income ascertained as herein provided for the year ending on the day so designated in the year preceding the date of assessment instead of upon the basis of the net income for the calendar year preceding the date of assessment; and it shall give notice of the day it has thus designated as the closing of its fiscal year to the collector of the district in which its principal business office is located at any time not less than thirty days prior to the date upon which its annual return shall be filed.

Company must report in full total sums received in cash, both amounts received at home office and those paid to its lawful agencies during calendar year; only net addition to reserve funds required by State statute is deductible. (*Maryland Casualty Co. v. United States*, 52 Ct. Cls., 201; T. D. 2451.)

Corporation owning all the stock in subsidiary and leasing all its property, controlling and managing subsidiary's property, dividends of subsidiary declared out of surplus which accrued prior to March 1, 1913, are not taxable income of the parent corporation. (*Southern Pacific Co. v. Lowe*, 247 U. S., 330; T. D. 2730.)

Failure to give notice of close of fiscal year at least thirty days prior to March 1, or to make return for preceding calendar year on or before March 1, renders corporations liable to additional tax and penalty. (T. D. 2001; see T. D. 2029.)

Returns, date of making; requirements.

All corporations, joint-stock companies or associations, and insurance companies subject to the tax herein imposed, computing taxes upon the income of the calendar year, shall, on or before the first day of March, nineteen hundred and fourteen, and the first day of March in each year thereafter, and all corporations, joint-stock companies or associations, and insurance companies, computing taxes upon the income of a fiscal year which it may designate in the manner herein-before provided, shall render a like return within sixty days after the

close of its said fiscal year, and within sixty days after the close of its fiscal year in each year thereafter, or in the case of a corporation, joint-stock company or association, or insurance company, organized or existing under the laws of a foreign country, in the place where its principal business is located within the United States, in such form as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe, shall render a true and accurate return under oath or affirmation of its president, vice president, or other principal officer, and its treasurer or assistant treasurer, to the collector of internal revenue for the district in which it has its principal place of business, setting forth (first) the total amount of its paid-up capital stock outstanding, or if no capital stock, its capital employed in business, at the close of the year; (second) the total amount of its bonded and other indebtedness at the close of the year; (third) the gross amount of its income, received during such year from all sources, and if organized under the laws of a foreign country the gross amount of its income received within the year from business transacted and capital invested within the United States; (fourth) the total amount of all its ordinary and necessary expenses paid out of earnings in the maintenance and operation of the business and properties of such corporation, joint-stock company or association, or insurance company within the year, stating separately all rentals or other payments required to be made as a condition to the continued use or possession of property, and if organized under the laws of a foreign country the amount so paid in the maintenance and operation of its business within the United States; (fifth) the total amount of all losses actually sustained during the year and not compensated by insurance or otherwise, stating separately any amounts allowed for depreciation of property, and in case of insurance companies the net addition, if any, required by law to be made within the year to reserve funds and the sums other than dividends paid within the year on policy and annuity contracts.

Instructions to collectors relative to corporations, joint-stock companies or associations, and insurance companies making return of annual net income for their fiscal years instead of the calendar year. (T. D. 1897.)

Receivers of insolvent corporations, duly appointed by the court, are not required to make returns of the net earnings resulting from their operation of such dissolved corporations. (*Scott v. Western Pacific R. R. Co.*, 246 Fed. 545; *Equitable Tr. Co. of New York v. Western Pac. Ry. Co.*, 236 Fed. 816.)

Mutual fire insurance companies; premium deposits.

Provided further, That mutual fire insurance companies requiring their members to make premium deposits to provide for losses and expenses shall not return as income any portion of the premium deposits returned to their policyholders, but shall return as taxable income all income received by them from all other sources plus such portions of the premium deposits as are retained by the companies for purposes other than the payment of losses and expenses and reinsurance reserves.

Mutual marine insurance companies; life insurance companies.

Provided, further, That mutual marine insurance companies shall include in their return of gross income gross premiums collected and received by them less amounts paid for reinsurance, but shall be enti-

tled to include in deductions from gross income amounts repaid to policyholders on account of premiums previously paid by them, and interest paid upon such amounts between the ascertainment thereof and the payment thereof, and life insurance companies shall not include as income in any year such portion of any actual premium received from any individual policyholder as shall have been paid back or credited to such individual policyholder, or treated as an abatement of premium of such individual policyholder, within such year.

Foreign corporations doing business in United States; losses.

And in case of a corporation, joint-stock company or association, or insurance company, organized under the laws of a foreign country, all losses actually sustained by it during the year in business conducted by it within the United States, not compensated by insurance or otherwise, stating separately any amounts allowed for depreciation of property, and in case of insurance companies the net addition, if any, required by law to be made within the year to reserve funds and the sums other than dividends paid within the year on policy and annuity contracts.

Mutual fire insurance companies.

Provided further, That mutual fire insurance companies requiring their members to make premium deposits to provide for losses and expenses shall not return as income any portion of the premium deposits returned to their policyholders, but shall return as taxable income all income received by them from all other sources plus such portions of the premium deposits as are retained by the companies for purposes other than the payment of losses and expenses and reinsurance reserves.

Mutual marine insurance companies; life insurance companies.

Provided further, That mutual marine insurance companies shall include in their return of gross income gross premiums collected and received by them less amounts paid for reinsurance, but shall be entitled to include in deductions from gross income amounts repaid to policyholders on account of premiums previously paid by them and interest paid upon such amounts between the ascertainment thereof and the payment thereof, and life insurance companies shall not include as income in any year such portion of any actual premium received from any individual policyholder as shall have been paid back or credited to such individual policyholder, or treated as an abatement of premium of such individual policyholder, within such year.

Returns; further requirements of.

(Sixth) The amount of interest accrued and paid within the year on its bonded or other indebtedness not exceeding one-half of the sum of its interest-bearing indebtedness and its paid-up capital stock, outstanding at the close of the year, or if no capital stock, the amount of interest paid within the year on an amount of indebtedness not exceeding the amount of capital employed in the business at the close of the year, and in the case of a bank, banking association, or trust company, stating separately all interest paid by it within the year on

deposits; or in case of a corporation, joint-stock company or association, or insurance company, organized under the laws of a foreign country, interest so paid on its bonded or other indebtedness to an amount of such bonded or other indebtedness not exceeding the proportion of its paid-up capital stock outstanding at the close of the year, or if no capital stock, the amount of capital employed in the business at the close of the year, which the gross amount of its income for the year from business transacted and capital invested within the United States bears to the gross amount of its income derived from all sources within and without the United States; (seventh) the amount paid by it within the year for taxes imposed under the authority of the United States and separately the amount so paid by it for taxes imposed by the Government of any foreign country; (eighth) the net income of such corporation, joint-stock company or association, or insurance company, after making the deductions in this subsection authorized.

Returns to be sent by collectors to the Commissioner.

All such returns shall as received be transmitted forthwith by the collector to the Commissioner of Internal Revenue.

Assessments; notice and payment.

All assessments shall be made and the several corporations, joint-stock companies or associations, and insurance companies shall be notified of the amount for which they are respectively liable on or before the first day of June of each successive year, and said assessment shall be paid on or before the thirtieth day of June.

See T. D. 1995; T. D. 2003.

Payment by corporations designating different fiscal year.

Provided, That every corporation, joint-stock company or association, and insurance company, computing taxes upon the income of the fiscal year which it may designate in the manner hereinbefore provided, shall pay the taxes due under its assessment within one hundred and twenty days after the date upon which it is required to file its list or return of income for assessment.

Commissioner to make return and assessment within three years.

Except in cases of refusal or neglect to make such return, and in cases of false or fraudulent returns, in which cases the Commissioner of Internal Revenue shall, upon the discovery thereof, at any time within three years after said return is due, make a return upon information obtained as provided for in this section or by existing law, and the assessment made by the Commissioner of Internal Revenue thereon shall be paid by such corporation, joint-stock company or association, or insurance company immediately upon notification of the amount of such assessment; and to any sum or sums due and unpaid after the thirtieth day of June in any year, or after one hundred and twenty days from the date on which the return of income is required to be made by the taxpayer.

Five per cent penalty and interest.

And after ten days' notice and demand thereof by the collector, there shall be added the sum of 5 per centum on the amount of tax unpaid and interest at the rate of 1 per centum per month upon said tax from the time the same becomes due.

Returns to be filed; publicity; inspection, when allowed.

(d) When the assessment shall be made, as provided in this section, the returns, together with any corrections thereof which may have been made by the Commissioner, shall be filed in the office of the Commissioner of Internal Revenue and shall constitute public records and be open to inspection as such: *Provided*, That any and all such returns shall be open to inspection only upon the order of the President, under rules and regulations to be prescribed by the Secretary of the Treasury and approved by the President: *Provided further*, That the proper officers of any State imposing a general income tax may, upon the request of the governor thereof, have access to said returns or to an abstract thereof, showing the name and income of each such corporation, joint-stock company, association, or insurance company, at such times and in such manner as the Secretary of the Treasury may prescribe.

Regulations. (T. Ds. 2016, 2961.)

Furnishing copies of returns. (T. D. 2962.)

Corporations neglecting to make return or making false return; penalty.

If any of the corporations, joint-stock companies or associations, or insurance companies aforesaid, shall refuse or neglect to make a return at the time or times hereinbefore specified in each year, or shall render a false or fraudulent return, such corporation, joint-stock company or association, or insurance company shall be liable to a penalty of not exceeding \$10,000.

Construction of word "State" or "United States."

H. That the word "State" or "United States" when used in this section shall be construed to include any Territory, Alaska, the District of Columbia, Porto Rico, and the Philippine Islands, when such construction is necessary to carry out its provisions.

Reenactment of sections 3167, 3172, 3173, 3176, R. S.

I. That sections thirty-one hundred and sixty-seven, thirty-one hundred and seventy-two, thirty-one hundred and seventy-three, and thirty-one hundred and seventy-six of the Revised Statutes of the United States as amended are hereby amended so as to read as follows:

Officers or employees divulging information.

SEC. 3167. It shall be unlawful for any collector, deputy collector, agent, clerk, or other officer or employee of the United States to divulge or to make known in any manner whatever not provided by law to any person the operations, style of work, or apparatus of any manufacturer or producer visited by him in the discharge of his

official duties, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any income return by any person or corporation, or to permit any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; and it shall be unlawful for any person to print or publish in any manner whatever not provided by law any income return or any part thereof or the amount or source of income, profits, losses, or expenditures appearing in any income return; and any offense against the foregoing provision shall be a misdemeanor and be punished by a fine not exceeding \$1,000, or by imprisonment not exceeding one year, or both, at the discretion of the court; and if the offender be an officer or employee of the United States he shall be dismissed from office and be incapable thereafter of holding any office under the Government.

Information contained in returns to be treated as inviolably confidential. (T. D. 1962.)

Canvass of districts.

SEC. 3172. Every collector shall, from time to time, cause his deputies to proceed through every part of his district and inquire after and concerning all persons therein who are liable to pay any internal-revenue tax, and all persons owning or having the care and management of any objects liable to pay any tax, and to make a list of such persons and enumerate said objects.

Returns; authority to issue summons to appear and testify.

SEC. 3173. It shall be the duty of any person, partnership, firm, association, or corporation, made liable to any duty, special tax, or other tax imposed by law, when not otherwise provided for, in case of a special tax, on or before the thirty-first day of July in each year, in case of income tax on or before the first day of March in each year, and in other cases before the day on which the taxes accrue, to make a list or return, verified by oath or affirmation, to the collector or a deputy collector of the district where located, of the articles or objects, including the amount of annual income charged with a duty or tax, the quantity of goods, wares, and merchandise made or sold and charged with a tax, the several rates and aggregate amount, according to the forms and regulations to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, for which such person, partnership, firm, association, or corporation is liable: *Provided*, That if any person liable to pay any duty or tax, or owning, possessing, or having the care or management of property, goods, wares, and merchandise, articles or objects liable to pay any duty, tax, or license, shall fail to make and exhibit a list or return required by law, but shall consent to disclose the particulars of any and all the property, goods, wares, and merchandise, articles, and objects liable to pay any duty or tax, or any business or occupation liable to pay any tax as aforesaid, then, and in that case, it shall be the duty of the collector or deputy collector to make such list or return, which, being distinctly read, consented to, and signed and verified by oath or affirmation by the person so owning, possessing, or having the care and management as afore-

said, may be received as the list of such person: *Provided further*, That in case no annual list or return has been rendered by such person to the collector or deputy collector as required by law, and the person shall be absent from his or her residence or place of business at the time the collector or a deputy collector shall call for the annual list or return, it shall be the duty of such collector or deputy collector to leave at such place of residence or business, with some one of suitable age and discretion, if such be present, otherwise to deposit in the nearest post office, a note or memorandum addressed to such person, requiring him or her to render to such collector or deputy collector the list or return required by law within ten days from the date of such note or memorandum, verified by oath or affirmation. And if any person, on being notified or required as aforesaid, shall refuse or neglect to render such list or return within the time required as aforesaid, or whenever any person who is required to deliver a monthly or other return of objects subject to tax fails to do so at the time required, or delivers any return which, in the opinion of the collector, is false or fraudulent, or contains any undervaluation or understatement, it shall be lawful for the collector to summon such person, or any other person having possession, custody, or care of books of account containing entries relating to the business of such person, or any other person he may deem proper, to appear before him and produce such books, at a time and place named in the summons, and to give testimony or answer interrogatories, under oath, respecting any objects liable to tax or the returns thereof. The collector may summon any person residing or found within the State in which his district lies; and when the person intended to be summoned does not reside and can not be found within such State, he may enter any collection district where such person may be found and there make the examination herein authorized. And to this end he may there exercise all the authority which he might lawfully exercise in the district for which he was commissioned.

Collection of 100 and 50 per cent additional to tax in case of failure to make return or of false or fraudulent return.

SEC. 3176. When any person, corporation, company, or association refuses or neglects to render any return or list required by law, or renders a false or fraudulent return or list, the collector or any deputy collector shall make, according to the best information which he can obtain, including that derived from the evidence elicited by the examination of the collector, and on his own view and information, such list or return, according to the form prescribed, of the income, property, and objects liable to tax owned or possessed or under the care or management of such person or corporation, company or association, and the Commissioner of Internal Revenue shall assess all taxes not paid by stamps, including the amount, if any, due for special tax, income or other tax, and in case of any return of a false or fraudulent list or valuation intentionally he shall add 100 per centum to such tax; and in case of a refusal or neglect, except in cases of sickness or absence, to make a list or return, or to verify the same as aforesaid, he shall add 50 per centum to such tax. In case of neglect occasioned by sickness or absence as aforesaid the collector may allow such further time for making and delivering such list or return as he may deem necessary, not exceeding thirty

days. The amount so added to the tax shall be collected at the same time and in the same manner as the tax unless the neglect or falsity is discovered after the tax has been paid, in which case the amount so added shall be collected in the same manner as the tax; and the list or return so made and subscribed by such collector or deputy collector shall be held prima facie good and sufficient for all legal purposes.

Receipts for taxes.

J. That it shall be the duty of every collector of internal revenue, to whom any payment of any taxes other than the tax represented by an adhesive stamp or other engraved stamp is made under the provisions of this section, to give to the person making such payment a full written or printed receipt, expressing the amount paid and the particular account for which such payment was made; and whenever such payment is made such collector shall, if required, give a separate receipt for each tax paid by any debtor, on account of payments made to or to be made by him to separate creditors in such form that such debtor can conveniently produce the same separately to his several creditors in satisfaction of their respective demands to the amounts specified in such receipts; and such receipts shall be sufficient evidence in favor of such debtor to justify him in withholding the amount therein expressed from his next payment to his creditor: but such creditor may, upon giving to his debtor a full written receipt, acknowledging the payment to him of whatever sum may be actually paid, and accepting the amount of tax paid as aforesaid (specifying the same) as a further satisfaction of the debt to that amount, require the surrender to him of such collector's receipt.

Jurisdiction.

K. That jurisdiction is hereby conferred upon the district courts of the United States for the district within which any person summoned under this section to appear to testify or to produce books shall reside, to compel such attendance, production of books, and testimony by appropriate process.

General provisions extended and made applicable.

L. That all administrative, special, and general provisions of law, including the laws in relation to the assessment, remission, collection, and refund of internal-revenue taxes not heretofore specifically repealed and not inconsistent with the provisions of this section, are hereby extended and made applicable to all the provisions of this section and to the tax herein imposed.

No jurisdiction to entertain suit brought to restrain collection of tax. (Dodge v. Brady, 240 U. S., 122; T. D. 2302.)

General provisions of law, including laws in relation to collection and refund of taxes, are applicable to income tax law. (Dodge v. Osborn, 240 U. S., 118; T. D. 2301.)

Porto Rico and the Philippine Islands.

M. That the provisions of this section shall extend to Porto Rico and the Philippine Islands: *Provided*, That the administration of the law and the collection of the taxes imposed in Porto Rico and the Philippine Islands shall be by the appropriate internal-revenue

officers of those governments, and all revenues collected in Porto Rico and the Philippine Islands thereunder shall accrue intact to the general governments thereof, respectively: *And provided further*, That the jurisdiction in this section conferred upon the district courts of the United States shall, so far as the Philippine Islands are concerned, be vested in the courts of the first instance of said islands: *And provided further*, That nothing in this section shall be held to exclude from the computation of the net income the compensation paid any official by the governments of the District of Columbia, Porto Rico, and the Philippine Islands, or the political subdivisions thereof.

Appropriation; officers and employees.

N. That for the purpose of carrying into effect the provisions of Section II of this act, and to pay the expenses of assessing and collecting the income tax therein imposed, and to pay such sums as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may deem necessary, for information, detection, and bringing to trial and punishment persons guilty of violating the provisions of this section, or conniving at the same, in cases where such expenses are not otherwise provided for by law, there is hereby appropriated out of any money in the Treasury not otherwise appropriated for the fiscal year ending June thirtieth, nineteen hundred and fourteen, the sum of \$800,000, and the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is authorized to appoint and pay from this appropriation all necessary officers, agents, inspectors, deputy collectors, clerks, messengers, and janitors, and to rent such quarters, purchase such supplies, equipment, mechanical devices, and other articles as may be necessary for employment or use in the District of Columbia or any collection district in the United States, or any of the Territories thereof: *Provided*, That no agent paid from this appropriation shall receive compensation at a rate higher than that now received by traveling agents on accounts in the Internal-Revenue Service, and no inspector shall receive a compensation higher than \$5 a day and \$3 additional in lieu of subsistence, and no deputy collector, clerk, messenger, or other employee shall be paid at a rate of compensation higher than the rate now being paid for the same or similar work in the Internal-Revenue Service.

In the office of the Commissioner of Internal Revenue at Washington, District of Columbia, there shall be appointed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, one additional deputy commissioner, at a salary of \$4,000 per annum; two heads of divisions, whose compensation shall not exceed \$2,500 per annum; and such other clerks, messengers, and employees, and to rent such quarters and to purchase such supplies as may be necessary: *Provided*, That for a period of two years from and after the passage of this act the force of agents, deputy collectors, inspectors, and other employees, not including the clerical force below the grade of chief of division, employed in the Bureau of Internal Revenue in the city of Washington, District of Columbia, authorized by this section of this act shall be appointed by the Commissioner of Internal Revenue, with the approval of the Secretary

of the Treasury, under such rules and regulations as may be fixed by the Secretary of the Treasury to insure faithful and competent service, and with such compensation as the Commissioner of Internal Revenue may fix, with the approval of the Secretary of the Treasury, within the limitations herein prescribed: *Provided further*, That the force authorized to carry out the provisions of Section II of this act, when not employed as herein provided, shall be employed on general internal-revenue work.

Rules and regulations governing the employment of the force necessary to carry out the provisions of the income-tax law. (T. D. 1883.)

Synopsis of rulings on questions relating to the income tax. (T. D. 2090.)

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SECTION IV.

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Articles coming into the United States from the Philippine Islands, and articles going into the Philippine Islands from the United States.

PAR. C. That there shall be levied, collected, and paid upon all articles coming into the United States from the Philippine Islands the rates of duty which are required to be levied, collected, and paid upon like articles imported from foreign countries: *Provided*, That all articles, the growth or product of or manufactured in the Philippine Islands from materials the growth or product of the Philippine Islands or of the United States, or of both, or which do not contain foreign materials to the value of more than 20 per centum of their total value, upon which no drawback of customs duties has been allowed therein, coming into the United States from the Philippine Islands shall hereafter be admitted free of duty:

Provided, however, That in consideration of the exemptions aforesaid, all articles, the growth, product, or manufacture of the United States, upon which no drawback of customs duties has been allowed therein, shall be admitted to the Philippine Islands from the United States free of duty:

And provided further, That the free admission, herein provided, of such articles, the growth, product, or manufacture of the United States, into the Philippine Islands, or of the growth, product, or manufacture, as hereinbefore defined, of the Philippine Islands into the United States, shall be conditioned upon the direct shipment thereof, under a through bill of lading, from the country of origin to the country of destination:

Provided, That direct shipment shall include shipments in bond through foreign territory contiguous to the United States:

Provided, however, That if such articles become unpacked while en route by accident, wreck, or other casualty, or so damaged as to necessitate their repacking, the same shall be admitted free of duty upon satisfactory proof that the unpacking occurred through accident or necessity and that the merchandise involved is the identical merchandise originally shipped from the United States or the Philippine Islands, as the case may be, and that its condition has not been changed except for such damage as may have been sustained:

And provided, That there shall be levied, collected, and paid, in the United States, upon articles, goods, wares, or merchandise com-

ing into the United States from the Philippine Islands, a tax equal to the internal-revenue tax imposed in the United States upon the like articles, goods, wares, or merchandise of domestic manufacture; such tax to be paid by internal-revenue stamp or stamps, to be provided by the Commissioner of Internal Revenue, and to be affixed in such manner and under such regulations as he, with the approval of the Secretary of the Treasury, shall prescribe; and such articles, goods, wares, or merchandise, shipped from said islands to the United States, shall be exempt from the payment of any tax imposed by the internal-revenue laws of the Philippine Islands:

And provided further, That there shall be levied, collected, and paid in the Philippine Islands, upon articles, goods, wares, or merchandise going into the Philippine Islands from the United States, a tax equal to the internal-revenue tax imposed in the Philippine Islands upon the like articles, goods, wares, or merchandise of Philippine Islands manufacture; such tax to be paid by internal-revenue stamps or otherwise, as provided by the laws in the Philippine Islands; and such articles, goods, wares, or merchandise going into the Philippine Islands from the United States shall be exempt from the payment of any tax imposed by the internal-revenue laws of the United States:

And provided further, That in addition to the customs taxes imposed in the Philippine Islands, there shall be levied, collected, and paid therein upon articles, goods, wares, or merchandise imported into the Philippine Islands from countries other than the United States, the internal-revenue tax imposed by the Philippine Government on like articles manufactured and consumed in the Philippine Islands or shipped thereto for consumption therein, from the United States:

And provided further, That from and after the passage of this act all internal revenues collected in or for account of the Philippine Islands shall accrue intact to the general government thereof and be paid into the insular treasury:

And provided further, That section thirteen of "An act to raise revenue for the Philippine Islands, and for other purposes," approved August fifth, nineteen hundred and nine, is hereby repealed.

Porto Rico.

PAR. D. That articles, goods, wares, or merchandise going into Porto Rico from the United States shall be exempted from the payment of any tax imposed by the internal-revenue laws of the United States.

Articles or products withdrawn required to be branded as prescribed for such articles for export, and in addition required to be stenciled or branded in plain roman letters the words: "For shipment to Porto Rico." (T. D. 1884.)

Manufacture of articles intended for exportation in bonded warehouses.

PAR. M. That all articles manufactured in whole or in part of imported materials, or of materials subject to internal-revenue tax, and intended for exportation without being charged with duty, and without having an internal-revenue stamp affixed thereto, shall, under such regulations as the Secretary of the Treasury may prescribe, in

order to be so manufactured and exported, be made and manufactured in bonded warehouses similar to those known and designated in Treasury Regulations as bonded warehouses, class six: *Provided*, That the manufacturer of such articles shall first give satisfactory bonds for the faithful observance of all the provisions of law and of such regulations as shall be prescribed by the Secretary of the Treasury: *Provided further*, That the manufacture of distilled spirits from grain, starch, molasses, or sugar, including all dilutions or mixtures of them or either of them, shall not be permitted in such manufacturing warehouses.

Whenever goods manufactured in any bonded warehouse established under the provisions of the preceding paragraph shall be exported directly therefrom or shall be duly laden for transportation and immediate exportation under the supervision of the proper officer who shall be duly designated for that purpose, such goods shall be exempt from duty and from the requirements relating to revenue stamps.

Any materials used in the manufacture of such goods, and any packages, coverings, vessels, brands, and labels used in putting up the same may, under the regulations of the Secretary of the Treasury, be conveyed without the payment of revenue tax or duty into any bonded manufacturing warehouse, and imported goods may, under the aforesaid regulations, be transferred without the exaction of duty from any bonded warehouse into any bonded manufacturing warehouse; but this privilege shall not be held to apply to implements, machinery, or apparatus to be used in the construction or repair of any bonded manufacturing warehouse or for the prosecution of the business carried on therein.

No articles or materials received into such bonded manufacturing warehouse shall be withdrawn or removed therefrom except for direct shipment and exportation or for transportation and immediate exportation in bond to foreign countries or to the Philippine Islands under the supervision of the officer duly designated therefor by the collector of the port, who shall certify to such shipment and exportation, or lading for transportation, as the case may be, describing the articles by their mark or otherwise, the quantity, the date of exportation, and the name of the vessel: *Provided*, That the waste material or by-products incident to the processes of manufacture, including waste derived from cleaning rice in bonded warehouses under act of March twenty-fourth, eighteen hundred and seventy-four, in said bonded warehouses may be withdrawn for domestic consumption on the payment of duty equal to the duty which would be assessed and collected, by law, if such waste or by-products were imported from a foreign country. All labor performed and services rendered under these provisions shall be under the supervision of a duly designated officer of the customs and at the expense of the manufacturer.

A careful account shall be kept by the collector of all merchandise delivered by him to any bonded manufacturing warehouse, and a sworn monthly return, verified by the customs officers in charge, shall be made by the manufacturers containing a detailed statement of all imported merchandise used by him in the manufacture of exported articles.

Before commencing business the proprietor of any manufacturing warehouse shall file with the Secretary of the Treasury a list of all the articles intended to be manufactured in such warehouse, and state the formula of manufacture and the names and quantities of the ingredients to be used therein.

Articles manufactured under these provisions may be withdrawn under such regulations as the Secretary of the Treasury may prescribe for transportation and delivery into any bonded warehouse at an exterior port for the sole purpose of immediate export therefrom:

Provided, That cigars manufactured in whole of tobacco imported from any one country, made and manufactured in such bonded manufacturing warehouses, may be withdrawn for home consumption upon the payment of the duties on such tobacco in its condition as imported under such regulations as the Secretary of the Treasury may prescribe, and the payment of the internal-revenue tax accruing on such cigars in their condition as withdrawn, and the boxes or packages containing such cigars shall be stamped to indicate their character, origin of tobacco from which made, and place of manufacture.

The provisions of Revised Statutes thirty-four hundred and thirty-three shall, so far as may be practicable, apply to any bonded manufacturing warehouse established under this act and to the merchandise conveyed therein.

Drawback.

PAR. O. That upon the exportation of articles manufactured or produced in the United States by the use of imported merchandise or materials upon which customs duties have been paid, the full amount of such duties paid upon the quantity of materials used in the manufacture or production of the exported product shall be refunded as drawback, less 1 per cent of such duties: *Provided*, That where a principal product and a by-product result from the manipulation of imported material and only the by-product is exported, the proportion of the drawback distributed to such by-product shall not exceed the duty assessable under this act on a similar by-product of foreign origin if imported into the United States. Where no duty is assessable upon the importation of a corresponding by-product, no drawback shall be payable on such by-product produced from the imported material; if, however, the principal product is exported, then on the exportation thereof there shall be refunded as drawback the whole of the duty paid on the imported material used in the production of both the principal and the by-product, less 1 per cent, as hereinbefore provided: *Provided further*, That when the articles exported are manufactured in part from domestic materials, the imported materials or the parts of the articles manufactured from such materials, shall so appear in the completed articles that the quantity or measure thereof may be ascertained: *And provided further*, That the drawback on any article allowed under existing law shall be continued at the rate herein provided. That the imported materials used in the manufacture or production of articles entitled to drawback of customs duties when exported shall, in all cases where drawback of duties paid on such materials is claimed, be identified, the quantity of such materials used and the amount of duties paid thereon shall be ascertained, the facts

of the manufacture or production of such articles in the United States and their exportation therefrom shall be determined, and the drawback due thereon shall be paid to the manufacturer, producer, or exporter, to the agent of either or to the person to whom such manufacturer, producer, exporter, or agent shall in writing order such drawback paid, under such regulations as the Secretary of the Treasury shall prescribe.

That on the exportation of flavoring extracts, medicinal or toilet preparations (including perfumery) hereafter manufactured or produced in the United States in part from domestic alcohol on which an internal-revenue tax has been paid, there shall be allowed a drawback equal in amount to the tax found to have been paid on the alcohol so used: *Provided*, That no other than domestic tax-paid alcohol shall have been used in the manufacture or production of such preparations. Such drawback shall be determined and paid under such rules and regulations, and upon the filing of such notices, bonds, bills of lading, and other evidence of payment of tax and exportation, as the Secretary of the Treasury shall prescribe.

That the provisions of this section shall apply to materials used in the construction and equipment of vessels built for foreign account and ownership, or for the Government of any foreign country, notwithstanding that such vessels may not within the strict meaning of the term be articles exported.

Regulations relative to the use of rectified alcohol in the manufacture for export of flavoring extracts, etc. (T. D. 1968.)

Articles manufactured in the United States from imported materials for exportation, and flavoring extracts, toilet and medicinal preparations manufactured from domestic tax-paid alcohol, under paragraph O of section 4, tariff act of October 3, 1913. (T. D. 33809.)

Articles reimported.

PAR. P. That upon the reimportation of articles once exported, of the growth, product, or manufacture of the United States, upon which no internal tax has been assessed or paid, or upon which such tax has been paid and refunded by allowance or drawback, there shall be levied, collected, and paid a duty equal to the tax imposed by the internal-revenue laws upon such articles, except articles manufactured in bonded warehouses and exported pursuant to law, which shall be subject to the same rate of duty as if originally imported, but proof of the identity of such articles shall be made under general regulations to be prescribed by the Secretary of the Treasury.

Refund of offers in compromise.

JOINT RESOLUTION To refund under certain conditions a portion of the offers in compromise for failure to make the return required under the act of October 3, 1913, said offers in compromise having been covered into the Treasury, and for other purposes, approved March 4, 1915 (38 Stat., 1225).

That the Secretary of the Treasury, on application to the Commissioner of Internal Revenue, be, and is hereby, authorized to refund, out of any money in the Treasury not otherwise appropriated, unto corporations all amounts paid by them into the Treasury of the United States in compromise by such corporations on account of their failure to make report under the requirements of the income-

tax law for the income-tax year nineteen hundred and thirteen, so paid in excess of \$10; and the Secretary of the Treasury is further authorized to likewise refund as to said tax year any and all amounts exacted and paid into the Treasury of the United States as penalties by corporations required by the law to make income-tax return, but which in their nature are not subject to income tax; and the Secretary is further authorized to likewise refund as to same tax year any and all amounts paid by individuals as penalties on account of their failure to make income-tax returns for said year nineteen hundred and thirteen, as required by law, so paid in excess of \$5.

Claims. (T. D. 2175.)

* * * * *

Repeal in part of act of August 5, 1909 (36 Stat., 11).

PAR. S. That, except as hereinafter provided, sections one to forty-two, both inclusive, of an act entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August fifth, nineteen hundred and nine, and all acts and parts of acts inconsistent with the provisions of this act, are hereby repealed: *Provided*, That nothing in this act shall be construed to permit any oaths to be demanded or fees to be charged except as provided in this act or in section twenty-eight hundred and sixty-two of the Revised Statutes of the United States, nor to repeal or in any manner affect the following numbered sections of the aforesaid act approved August fifth, nineteen hundred and nine, viz: Subsection twenty-nine of section twenty-eight and subsequent laws and amendments relating to the establishment and continuance of a Customs Court, subsection thirty of section twenty-eight, providing for additional attorneys, subsection twelve of section twenty-eight and subsequent provisions establishing a Board of General Appraisers of merchandise, sections thirty, thirty-one, thirty-two, thirty-three, and thirty-five, imposing an internal-revenue tax upon tobacco, section thirty-six, providing for a tonnage duty, section thirty-nine, authorizing the Secretary of the Treasury to borrow on the credit of the United States to defray expenditures on account of the Panama Canal, section forty, authorizing the Secretary of the Treasury to borrow to meet public expenditures:

Provided further, That all excise taxes upon corporations imposed by section thirty-eight, that have accrued or have been imposed for the year ending December thirty-first, nineteen hundred and twelve, shall be returned, assessed, and collected in the same manner, and under the same provisions, liens, and penalties as if section thirty-eight continued in full force and effect:

And provided further, That a special excise tax with respect to the carrying on or doing of business, equivalent to 1 per centum upon their entire net income, shall be levied, assessed, and collected upon corporations, joint stock companies or associations, and insurance companies of the character described in section thirty-eight of the act of August fifth, nineteen hundred and nine, for the period from January first to February twenty-eighth, nineteen hundred and thirteen, both dates inclusive, which said tax shall be computed upon one-sixth of the entire net income of said corporations, joint stock companies or associations, and insurance companies, for said year,

said net income to be ascertained in accordance with the provisions of subsection G of section two of this act:

Provided further, That the provisions of said section thirty-eight of the act of August fifth, nineteen hundred and nine, relative to the collection of the tax therein imposed shall remain in force for the collection of the excise tax herein provided, but for the year nineteen hundred and thirteen it shall not be necessary to make more than one return and assessment for all the taxes imposed herein upon said corporations, joint stock companies or associations, and insurance companies, either by way of income or excise, which return and assessment shall be made at the times and in the manner provided in this act; but the repeal of existing laws or modifications thereof embraced in this act shall not affect any act done, or any right accruing or accrued, or any suit or proceeding had or commenced in any civil case before the said repeal or modification; but all rights and liabilities under said laws shall continue and may be enforced in the same manner as if said repeal or modifications had not been made. Any offenses committed and all penalties or forfeitures or liabilities incurred prior to the passage of this act under any statute embraced in or changed, modified, or repealed by this act may be prosecuted or punished in the same manner and with the same effect as if this act had not been passed. No acts of limitation now in force, whether applicable to civil causes and proceedings or to the prosecution of offenses or for the recovery of penalties or forfeitures embraced in or modified, changed, or repealed by this act shall be affected thereby so far as they affect any suits, proceedings, or prosecutions, whether civil or criminal, for causes arising or acts done or committed prior to the passage of this act, which may be commenced and prosecuted within the same time and with the same effect as if this act had not been passed.

Saving clause intended to relate only to rights and liabilities in respect to taxes accrued under 1909 act and was not intended to cover excise taxes for months of January and February, 1913. (Butterick Co. v. United States, 240 Fed., 539.)

CHAPTER 9.

AN ACT TO INCREASE THE INTERNAL REVENUE, AND FOR OTHER PURPOSES. APPROVED OCTOBER 22, 1914 (38 STAT., 745).

Fermented liquors.	Collectors to furnish stamps; regulations.
Wines, liquors, cordials, etc.	Persons registering, issuing, etc., any instruments, documents, etc., without stamp; penalty; validating instruments.
Fortified wines.	Instrument not to be recorded if unstamped; bonds, etc., issued in foreign countries to be stamped.
Amendment to law relative to wines.	Not lawful to record instrument until stamped.
Special taxes on occupations.	Instrument not valid on account of absence of particular denomination of stamp.
Tobacco dealers and manufacturers.	Exemptions.
Penalty.	
Adhesive stamps; tax on instruments.	
Taxes under Schedule B.	
Penalty.	
Counterfeiting stamps; selling forged stamps; removing and reusing stamps; penalties.	
Cancellation of stamps; penalty.	
Persons issuing promissory note unstamped; penalty.	

Provisions as to dies and stamps applicable to Schedule B.	Schedule A, stamp taxes on instruments.
When Schedule B takes effect; penalty.	Schedule B, stamp taxes on perfumery and cosmetics, and other similar articles, and on chewing gum.
Removing stamps, reusing wrappers, etc.; penalty.	Drawback.
Articles in Schedule B; sending out before affixing stamps; penalty.	General provisions applicable; penalty; appropriation.
Articles for exportation.	Date act takes effect; how long in force; redemption of stamps.
Declaration in writing to be filed with collector monthly; penalty.	Extension of act of October 22, 1914, appropriation.
Definition of manufacturer.	Redemption of stamps.
Stamps on imported merchandise.	Repeal of act of October 22, 1914.
Stamps to be prepared; discount.	

FERMENTED LIQUORS.

Be it enacted, etc., That there shall be levied, collected, and paid in lieu of the tax of \$1 now imposed by law, a tax of \$1.50 on all beer, lager beer, ale, porter, and other similar fermented liquor, brewed or manufactured and sold, or stored in warehouse, or removed for consumption or sale, within the United States, by whatever name such liquors may be called, for every barrel containing not more than thirty-one gallons; and at a like rate for any other quantity or for the fractional parts of a barrel authorized and defined by law. And section thirty-three hundred and thirty-nine of the Revised Statutes is hereby amended accordingly: *Provided*, That the additional tax imposed in this section on all fermented liquors stored in warehouse to which a stamp has been affixed shall be assessed and collected in the manner now provided by law for the collection of taxes not paid by stamp: *Provided further*, That until appropriate stamps are prepared and furnished, the stamps heretofore used to denote the payment of the internal-revenue tax on fermented liquor may be stamped or imprinted with a suitable device to denote the new rate of tax herein imposed, and shall be affixed to all packages containing such liquors on which the tax imposed by this act is paid. Any person having possession of unaffixed stamps heretofore issued for the payment of the tax on fermented liquors shall present the same to the collector of the district, who shall receive them at the price paid for such stamps by the purchaser and issue in lieu thereof new or imprinted stamps at the rate provided in this act.

Additional tax; instructions to collectors. (T. D. 2026.)

Instructions relative to reporting collection of additional taxes. (T. D. 2031.)

Further instructions in connection with additional tax on fermented liquors. (T. D. 2047.)

WINES, LIQUEURS, CORDIALS, ETC.

SEC. 2. That upon all still wines, domestic and imported, when sold or offered for sale or consumption, there shall be levied and collected taxes as follows: On each bottle containing one-fourth pint or less, one-fourth cent; on each bottle containing more than one-fourth pint and not more than one-half pint, one-half cent; on each bottle containing more than one-half pint and not more than one pint, 1 cent; and on each bottle containing more than one pint and not more

than one quart, 2 cents; and on still wines in all other containers, not herein specially provided for, the tax shall be at the rate of 8 cents per gallon.

That upon all domestic and imported champagne and other sparkling wines, and upon all artificially carbonated wines when sold or offered for sale or consumption, there shall be levied and collected taxes as follows: Upon each bottle containing one-half pint or less, 5 cents; on each bottle containing more than one-half pint and not more than one pint, 10 cents; on each bottle containing more than one pint and not more than one quart, 20 cents; and on all other containers at the rate of 20 cents per quart; and on all liqueurs, cordials, or similar compounds, domestic and imported, by whatever name sold or offered for sale, there shall be levied and collected a tax on each bottle containing not more than one-half pint, 1½ cents; more than one-half pint and not more than one pint, 3 cents; more than one pint and not more than one quart, 6 cents; and on larger containers a tax at the rate of 24 cents per gallon.

All of the taxes imposed in the preceding paragraphs of this section shall be paid by stamps to be affixed to each bottle or container in which such still wines, champagne wines, carbonated wines, liqueurs, or cordials, or similar compounds are sold or offered for sale: *Provided*, That when such still wines, champagne wines, carbonated wines, liqueurs, cordials, or similar compounds, taxable under the provisions of this section, are sold or delivered by the producer, importer, or dealer in wholesale quantities to other dealers, including rectifiers, manufacturing chemists, and druggists, the dealer receiving and selling, or offering the same for sale or consumption to any person other than a dealer, shall affix thereto the stamps hereinbefore prescribed: *And provided further*, That the stamp tax herein imposed shall not be collected on any still wine used by any rectifier, manufacturing chemist, or druggist in the manufacture of any liqueur, cordial, or compound subject to any internal-revenue tax imposed by this act.

The Commissioner of Internal Revenue shall cause to be prepared suitable and special stamps denoting the tax herein imposed, to be affixed and canceled in such manner as he, with the approval of the Secretary of the Treasury, may prescribe; and in the absence of such stamps from any bottle or container containing wine, liqueur, cordial, or compound taxable under the provisions of this section, sold or offered for sale or consumption, shall be prima facie evidence that the tax thereon has not been paid, and all such wines, liqueurs, cordials, or compounds shall be forfeited to the United States.

Classification of liqueurs, cordials, and similar compounds. (T. D. 2050.)

Affixing and cancelling stamps on containers of wines, cordials, liqueurs, and similar compounds. (T. D. 2053.)

Instructions for stamping bottles and other containers of wines, liqueurs, cordials, and similar compounds. (T. D. 2078, 2338, 2352.)

Penalty for selling or offering for sale unstamped articles subject to tax. (T. D. 2118.)

Instructions relative to taxation of gins, as compounds to similar liqueurs and cordials. (T. D. 2120.)

Instructions relative to tax payment and stamping of kirsch or kirsch-wasser, zwetschenwasser or quetschenwasser, arrack, brandin, and aquavit, as liqueurs, cordials, or similar compounds. (T. D. 2208.)

Fortified wines.

There shall be levied and assessed against the maker or producer of all wines fortified under the provisions and conforming to the requirements of the sections of the tariff act of October first, eighteen hundred and ninety, relating to the fortification of pure sweet wines, as amended, and as further amended by this act, a tax of 55 cents on each taxable gallon of grape brandy or wine spirits used by him in the fortification of such wines: *Provided, however,* That the maker or producer of such fortified wine shall, under regulations and suitable bonds, to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, have assessed against him monthly the said tax of 55 cents on each taxable gallon of grape brandy or wine spirits used by him during the preceding month, which assessment shall be paid within ninety days from the date of notice thereof: *Provided further,* That nothing herein contained shall be construed as exempting any still wines, cordials, liqueurs, or similar compounds from the payment of any stamp tax provided for in this section.

† The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is hereby authorized to make all necessary regulations to make effective the provisions of this section.

Amendment to law relative to wines.

That sections forty-two, forty-three, forty-five, forty-six, and forty-nine of the act of October first, eighteen hundred and ninety, as amended by section sixty-eight of an act approved August twenty-eighth, eighteen hundred and ninety-four, and by an act approved June seventh, nineteen hundred and six, are further amended to read as follows:

† “SEC. 42. That any producer of pure sweet wines may use in the preparation of such sweet wines, under such regulations, and after the filing of such notices and bonds, together with the keeping of such records and the rendition of such reports as to materials and products as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe, wine spirits produced by any duly authorized distiller, and the Commissioner of Internal Revenue in determining the liability of any distiller of wine spirits to assessment under section thirty-three hundred and nine of the Revised Statutes, is authorized to allow such distiller credit in his computations for the wine spirits withdrawn to be used in fortifying sweet wines under this act: *Provided,* That such wine containing after fortification more than twenty-four per centum of alcohol, as defined by section thirty-two hundred and forty-nine of the Revised Statutes, shall be forfeited to the United States.

“SEC. 43. That the wine spirits mentioned in section forty-two of this act is the product resulting from the distillation of fermented grape juice, to which water may have been added prior to, during, or after fermentation, for the sole purpose of facilitating the fermentation and economical distillation thereof, and shall be held to include the product from grapes or their residues commonly known as grape brandy, and shall include commercial grape brandy

which may have been colored with burnt sugar or caramel; and the pure sweet wine which may be fortified with wine spirits under the provisions of this act is fermented or partially fermented grape juice only, with the usual cellar treatment, and shall contain no other substance whatever introduced before, at the time of, or after fermentation, except as herein expressly provided: *Provided*, That the addition of pure boiled or condensed grape must be pure crystallized cane or beet sugar, or pure dextrose sugar or water, or any or all of them, to the pure grape juice before fermentation, or to the fermented product of such grape juice, or to both, prior to the fortification provided in this act, either for the purpose of perfecting sweet wines according to commercial standards or for mechanical purposes, shall not be excluded by the definition of pure sweet wine aforesaid: *Provided, however*, That the cane or beet sugar, or pure dextrose sugar so used shall not be in excess of eleven per centum of the weight of the wine to be fortified under this act: *And provided further*, That the addition of water herein authorized shall be under such regulations and limitations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may from time to time prescribe: *Provided, however*, That records kept in accordance with such regulations as to the percentage of saccharine, acid, alcoholic, and added water content of the wine offered for fortification shall be open to inspection by any official of the Department of Agriculture thereto duly authorized by the Secretary of Agriculture; but in no case shall such wines to which water has been added be eligible for fortification under the provisions of this act, where the same, after fermentation and before fortification, have an alcoholic strength of less than five per centum of their volume.

“SEC. 45. That under such regulations and official supervision, and upon the execution of such entries and the giving of such bonds, bills of lading, and other security as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe, any producer of pure sweet wines as defined by this act may withdraw wine spirits from any special bonded warehouse in original packages or from any registered distillery in any quantity not less than eighty wine gallons, and may use so much of the same as may be required by him under such regulations, and after the filing of such notices and bonds and the keeping of such records and the rendition of such reports as to materials and products and the disposition of the same as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe, in fortifying the pure sweet wines made by him, and for no other purpose, in accordance with the foregoing limitations and provisions; and the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is authorized whenever he shall deem it to be necessary for the prevention of violations of this law to prescribe that wine spirits withdrawn under this section shall not be used to fortify wines except at a certain distance prescribed by him from any distillery, rectifying house, winery, or other establishment used for producing or storing distilled spirits, or for making or storing wines other than wines which are so fortified, and that in the building in which such fortification of wines is practiced no wines or

spirits other than those permitted by this regulation shall be stored in any room or part of the building in which fortification of wine is practiced. The use of wine spirits for the fortification of sweet wines under this act shall be under the immediate supervision of an officer of internal revenue, who shall make returns describing the kinds and quantities of wine so fortified, and shall affix such stamps and seals to the packages containing such wines as may be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury; and the Commissioner of Internal Revenue shall provide by regulations the time within which wines so fortified with the wine spirits so withdrawn may be subject to inspection, and for final accounting for the use of such wine spirits and for rewarehousing or for payment of the tax on any portion of such wine spirits which remain not used in fortifying pure sweet wines.

“SEC. 46. That wine spirits may be withdrawn from special bonded warehouses at the instance of any person desiring to use the same to fortify any wines, in accordance with commercial demands of foreign markets, when such wines are intended for exportation, without the payment of tax on the amount of wine spirits used in such fortification, under such regulations, and after making such entries, and executing and filing with the collector of the district from which the removal is to be made such bonds and bills of lading, and giving such other additional security to prevent the use of such wine spirits free of tax otherwise than in the fortification of wine intended for exportation and for the due exportation of the wine so fortified, as may be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury; and all of the provisions of law governing the exportation of distilled spirits free of tax, so far as applicable, shall apply to the withdrawal and use of wine spirits and the exportation of the same in accordance with this section; and the Commissioner of Internal Revenue is authorized, subject to the approval of the Secretary of the Treasury, to prescribe that wine spirits intended for the fortification of wines under this section shall not be introduced into such wines except under the immediate supervision of an officer of internal revenue, who shall make returns describing the kinds and quantities of wine so fortified, and shall affix such stamps and seals to the packages containing such wines as may be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. Whenever transportation of such wine is to be effected by land carriage the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe such regulations as to sealing packages and vehicles containing same, and as to the supervision of transportation from the point of departure, which point shall be determined as the place where such wine spirits may be introduced into such wines to the point of destination as may be necessary to insure the due exportation of such fortified wines: *Provided*, That where, in accordance with regulations of the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, wines fortified under the provisions of this act with brandy taxable at 55 cents per proof gallon are exported directly from the winery where fortified, there shall be allowed an abatement or refund of tax equivalent to 55 cents per gallon on each proof gallon of wine spirits contained in

such wine at the time of exportation, which amount of wine spirits shall be ascertained by the Commissioner of Internal Revenue under regulations approved by the Secretary of the Treasury: *Provided*, That such wine spirits on which abatement or refund of tax is allowed shall not exceed the total amount of alcohol in such wine over and above fourteen per centum thereof.

"SEC. 49. That wine spirits used in fortifying wines may be recovered from such wines only on the premises of a duly authorized grape-brandy distiller, and for the purpose of such recovery wine so fortified may be received as material on the premises of such a distiller, on a special permit of the collector of internal revenue in whose district the distillery is located; and the distiller will be held to pay the tax on the product from such wines as will include both the alcoholic strength therein produced by the fermentation of the grape juice and that obtained from the added distilled wine spirits: *Provided*, That when application for such special permit for redistillation shall be made by the producer of any wines fortified with brandy subject to the tax of 55 cents per proof gallon, before such wine shall have been moved from the premises of the winery where fortified and the redistillation is had under regulations made by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, an abatement or refund of the tax assessed against said producer shall be allowed equivalent to 55 cents per proof gallon of brandy contained in said spirits at the time of redistillation, which amount of brandy shall be ascertained by the Commissioner of Internal Revenue, under regulations approved by the Secretary of the Treasury, and wine spirits so recovered may be used in the manner provided by law for the fortification of other wine: *Provided*, That such wine spirits on which abatement or refund of tax is allowed shall not exceed the total amount of alcohol in such wine over and above fourteen per centum thereof."

That section three and section six of the act of June seventh, nineteen hundred and six, amending the laws relating to the fortification of pure sweet wines, are hereby amended to read as follows:

"SEC. 3. That the Commissioner of Internal Revenue is hereby authorized to assign at each winery where wines are to be fortified such number of gaugers or storekeeper gaugers, in the capacity of gaugers, for special duties as may be necessary for the proper supervision of the making and fortifying of such wines, and the compensation of such officers shall not exceed \$5 per diem while so assigned, together with their actual and necessary traveling expenses, and also a reasonable allowance for their board bills, to be fixed by the Commissioner of Internal Revenue, but not to exceed \$2 per diem for said board bills. That bonds hereafter given under the provisions of the aforesaid Act of October first, eighteen hundred and ninety, as amended, shall be conditioned for the payment of the tax on all brandy removed thereunder and not used and accounted for within the time and in the manner required by law and regulations, and for the payment of all taxes imposed on the brandy so withdrawn and used for fortifications; and the said bonds shall contain such other conditions as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulation prescribe.

"SEC. 6. That any person who by any process recovers from wines

fortified under the provisions of the aforesaid act approved October first, eighteen hundred and ninety, as amendments thereto, any brandy or wine spirits used in the manufacture or fortification of said wine, otherwise than is provided for in said act and its amendments, or who shall rectify, mix, or compound with distilled spirits or other materials, except as provided in this act, such grape brandy, fortified wines or wine spirits unlawfully recovered therefrom, shall, on conviction, be punished for each offense by a fine of not less than \$200 nor more than \$1,000. But the provisions of this section and the provisions of section thirty-two hundred and forty-four of the Revised Statutes of the United States, as amended, relating to rectification, or other internal revenue laws of the United States, shall not be held to apply to or prohibit the mixing or blending of pure sweet wines fortified under the provisions of this act with each other or with other wines: *Provided*, That the pure sweet wines fortified under the provisions of this act may be used in the manufacture of cordials, liqueurs, and similar compounds on which an internal revenue tax of 24 cents a gallon is imposed, and otherwise the provisions of section thirty-two hundred and forty-four of the Revised Statutes of the United States shall remain in full force and effect."

Special taxes.

Sec. 3. That on and after November first, nineteen hundred and fourteen, special taxes shall be, and hereby are, imposed annually as follows, that is to say:

First. Bankers shall pay \$1 for each \$1,000 of capital used or employed, and in estimating capital surplus and undivided profits shall be included. The amount of such annual tax shall in all cases be computed on the basis of the capital, surplus, and undivided profits for the preceding fiscal year. Every person, firm, or company, and every incorporated or other bank, having a place of business where credits are opened by the deposit or collection of money or currency, subject to be paid or remitted upon draft, check, or order, or where money is advanced or loaned on stocks, bonds, bullion, bills of exchange, or promissory notes, or where stocks, bonds, bullion, bills of exchange, or promissory notes are received for discount or sale, shall be a banker under this act: *Provided*, That any postal savings bank, or savings bank having no capital stock, and whose business is confined to receiving deposits and loaning or investing the same for the benefit of its depositors, and which does no other business of banking, shall not be subject to this tax.

Bank which, in addition to its banking business, acts as trustee, receiver, executor, or administrator, or engages in underwriting or promoting new enterprises or refinancing old enterprises, or buys and sells securities on its own account for profit, is taxable upon the total amount of its capital, including surplus and undivided profits, unless it be shown that a specific portion of its capital is used in such other business and that such use does not constitute banking; mere showing that a specific portion of the capital, including surplus and undivided profits, is used in such other business is not alone sufficient to show that such capital is not used in banking. (*Fidelity Trust Co., of Baltimore, v. Miles*, 258 Fed., 770; *T. D. 2895*.)

Tax on bankers is constitutional. (*Real Estate Title Insurance & Trust Co. v. Lederer*, 229 Fed., 799; *T. D. 2306*; *Anderson v. Farmers Loan & Trust Co.*, 241 Fed., 322; *T. D. 2460*.)

The capital, surplus, and undivided profits of a trust company doing business as banker invested in stocks, bonds, and securities are treated as used and employed in banking within the meaning of section; tax imposed is upon so much thereof as is used in the banking business. (*Anderson v. Farmers Loan & Trust Co.*, 241 Fed., 322; T. D. 2460.)

Instructions as to the preparation of special bankers' lists. (T. D. 2045.)

Method of arriving at undivided profits to be entered into the basis upon which tax on bankers is to be computed. (T. D. 2064.)

Basis upon which special tax imposed on bankers shall be computed defined. (T. D. 2125.)

Character of investment has no bearing upon question of amount invested; can not be said as matter of law that capital, surplus, or undivided profits can be segregated from bank's other assets. (*Real Estate Title, Insurance & Trust Co. v. Lederer*, 229 Fed., 799; T. D. 2306.)

Bank which, in addition to main business of examining and insuring real estate titles, carried on savings bank business, which it kept separate from its other business, was not taxable upon the total amount of capital, surplus and undivided profits used in the insurance business, amount used in banking business as such only being subject to tax. Title Guarantee & Trust Co. v. Miles, 258 Fed., 771.)

Second. Brokers shall pay \$30. Every person, firm, or company, whose business it is to negotiate purchases or sales of stocks, bonds, exchange, bullion, coined money, bank notes, promissory notes, or other securities, for themselves or others, shall be regarded as a broker: *Provided*, That any person having paid the special tax as a banker shall not be required to pay the special tax as a broker.

Special tax liability as broker is not incurred on account of a person negotiating purchases of stocks, bonds, etc., solely for himself. (T. D. 2263.)

Third. Pawnbrokers shall pay \$50. Every person, firm, or company whose business or occupation it is to take or receive, by way of pledge, pawn, or exchange, any goods, wares, or merchandise, or any kind of personal property whatever, as security for the repayment of money loaned thereon, shall be deemed a pawnbroker.

Fourth. Commercial brokers shall pay \$20. Every person, firm, or company whose business it is as a broker to negotiate sales or purchases of goods, wares, produce, or merchandise, or to negotiate freights and other business for the owners of vessels, or for the shippers or consignors or consignees of freight carried by vessels, shall be regarded as a commercial broker under this act.

Real estate agents engaged in negotiating upon a commission purchases and sales of real estate, collecting rents, etc., do not incur liability as brokers. (T. D. 2063.)

Special tax in case of local agents, sales representatives, and others operating on a commission basis; commission merchants. (T. D. 2107.)

Fifth. Custom-house brokers shall pay \$10. Every person, firm, or company whose occupation it is, as the agent of others, to arrange entries and other custom-house papers, or transact business at any port of entry relating to the importation or exportation of goods, wares, or merchandise, shall be regarded as a custom-house broker.

Person or firm holding himself or itself out to the public as a custom-house broker is required to pay tax. (T. D. 2321.)

Sixth. Proprietors of theaters, museums, and concert halls, where a charge for admission is made, having a seating capacity of not more than two hundred and fifty, shall pay \$25; having a seating capacity of more than two hundred and fifty and not exceeding five hundred, shall pay \$50; having a seating capacity exceeding five

hundred and not exceeding eight hundred, shall pay \$75; having a seating capacity of more than eight hundred, shall pay \$100. Every edifice used for the purpose of dramatic or operatic or other representations, plays, or performances, for admission to which entrance money is received, not including halls or armories rented or used occasionally for concerts or theatrical representations, shall be regarded as a theater: *Provided*, That whenever any such edifice is under lease at the passage of this act, the tax shall be paid by the lessee, unless otherwise stipulated between the parties to said lease.

Motion-picture theaters classed as taxable. (T. D. 2040.)

Special tax liability on account of operation of air domes. (T. D. 2217.)

Proprietors of theatrical troupes traveling with carnival companies required to pay special tax. (T. D. 2223.)

Penalty where seating capacity is returned as smaller than it actually is; effect of increasing seating capacity after payment of tax. (T. D. 2775.)

Tax liability where plays or performances are given in hall or armory only occasionally; liability of owners or agents of theatrical troupes giving performances in halls for which taxes have not been paid by owners or lessees. (T. D. 2314.)

Seventh. The proprietor or proprietors of circuses shall pay \$100. Every building, space, tent, or area where feats of horsemanship or acrobatic sports or theatrical performances not otherwise provided for in this act are exhibited shall be regarded as a circus: *Provided*, That no special tax paid in one State, Territory, or the District of Columbia shall exempt exhibitions from the tax in another State, Territory, or the District of Columbia, and but one special tax shall be imposed for exhibitions within any one State, Territory, or District.

Special tax liability of circuses stated. (T. D. 2183.)

Eighth. Proprietors or agents of all other public exhibitions or shows for money not enumerated in this section shall pay \$10: *Provided*, That a special tax paid in one State, Territory, or the District of Columbia shall not exempt exhibitions from the tax in another State, Territory, or the District of Columbia, and but one special tax shall be required for exhibitions within any one State, Territory, or the District of Columbia: *Provided further*, That this paragraph shall not apply to Chautauquas, lecture lyceums, agricultural or industrial fairs, or exhibitions held under the auspices of religious or charitable associations.

Exemption of lecture lyceum, with special reference to the Redpath Lyceum Bureau. (Redpath Lyceum Bureau v. Pickering, 251 Fed., 49; T. Ds. 2448, 2684.)

Ninth. Proprietors of bowling alleys and billiard rooms shall pay \$5 for each alley or table. Every building or place where bowls are thrown or where games of billiards or pool are played and that are open to the public, with or without price, shall be regarded as a bowling alley or a billard room, respectively.

Tenth. Commission merchants shall pay \$20. Every person, firm, or company whose business or occupation it is to receive into his or its possession any goods, wares, or merchandise to sell the same on commission shall be regarded as a commission merchant: *Provided*, That any person having paid the special tax as a commercial broker shall not be required to pay the special tax as a commission merchant:

Provided further, That this provision shall not apply to commission houses run upon a cooperative plan.

Schedule of articles and occupations subject to tax. (T. D. 2035.)

Special tax returns to be rendered. (T. D. 2039.)

Digest of rulings under war-revenue act of June 13, 1898, identical with, or essentially similar to, the special-tax provision of this act, published for convenience in construing. (T. D. 2046.)

Liability as commission merchants of the customers of various firms through their method of handling goods of these firms. (T. D. 2084.)

Special tax as commercial broker or commission merchant. (T. D. 2107.)

Tax liability of leaf-tobacco dealers making sales of leaf tobacco for others on commission. (T. D. 2296.)

Tobacco dealers and manufacturers.

SEC. 4. That on and after November first, nineteen hundred and fourteen, special taxes on tobacco dealers and manufacturers shall be and hereby are imposed annually as follows, the amount of such annual taxes to be computed in all cases on the basis of the annual sales for the preceding fiscal year:

Dealers in leaf tobacco whose annual sales or transfers do not exceed fifty thousand pounds shall each pay \$6. Dealers in leaf tobacco whose annual sales or transfers exceed fifty thousands and do not exceed one hundred thousand pounds shall pay \$12, and if their annual sales or transfers exceed one hundred thousand pounds shall pay \$24: *Provided*, That dealers in leaf tobacco whose annual sales or transfers do not exceed one thousand pounds shall be exempt from the tax herein imposed on dealers in leaf tobacco.

Dealers in tobacco, not specially provided for in this section, whose annual receipts from the sale of tobacco exceed \$200, shall each pay \$4.80 for each store, shop, or other place in which tobacco in any form is sold.

Every person whose business it is to sell, or offer for sale, manufactured tobacco, snuff, cigars, or cigarettes shall be regarded as a dealer in tobacco: *Provided*, That no manufacturer of tobacco, snuff, cigars, or cigarettes shall be required to pay a special tax as a dealer in manufactured tobacco, snuff, cigars, or cigarettes for selling his own products at the place of manufacture.

Manufacturers of tobacco whose annual sales do not exceed one hundred thousand pounds shall each pay \$6.

Manufacturers of tobacco whose annual sales exceed one hundred thousand and do not exceed two hundred thousand pounds shall each pay \$12.

Manufacturers of tobacco whose annual sales exceed two hundred thousand and do not exceed four hundred thousand pounds shall each pay \$24.

Manufacturers of tobacco whose annual sales exceed four hundred thousand and do not exceed one million pounds shall each pay \$60.

Manufacturers of tobacco whose annual sales exceed one million and do not exceed five million pounds shall each pay \$300.

Manufacturers of tobacco whose annual sales exceed five million and do not exceed ten million pounds shall each pay \$600.

Manufacturers of tobacco whose annual sales exceed ten million and do not exceed twenty million pounds shall each pay \$1,200.

Manufacturers of tobacco whose annual sales exceed twenty million pounds shall each pay \$2,496.

Manufacturers of cigars whose annual sales do not exceed one hundred thousand cigars shall each pay \$3.

Manufacturers of cigars whose annual sales exceed one hundred thousand and do not exceed two hundred thousand cigars shall each pay \$6.

Manufacturers of cigars whose annual sales exceed two hundred thousand and do not exceed four hundred thousand cigars shall each pay \$12.

Manufacturers of cigars whose annual sales exceed four hundred thousand and do not exceed one million cigars shall each pay \$30.

Manufacturers of cigars whose annual sales exceed one million and do not exceed five million cigars shall each pay \$150.

Manufacturers of cigars whose annual sales exceed five million and do not exceed twenty million cigars shall each pay \$600.

Manufacturers of cigars whose annual sales exceed twenty million and do not exceed forty million cigars shall each pay \$1,200.

Manufacturers of cigars whose annual sales exceed forty million cigars shall each pay \$2,496.

Manufacturers of cigarettes whose annual sales do not exceed one million cigarettes shall each pay \$12.

Manufacturers of cigarettes whose annual sales exceed one million and do not exceed two million cigarettes shall each pay \$24.

Manufacturers of cigarettes whose annual sales exceed two million and do not exceed five million cigarettes shall each pay \$60.

Manufacturers of cigarettes whose annual sales exceed five million and do not exceed ten million cigarettes shall each pay \$120.

Manufacturers of cigarettes whose annual sales exceed ten million and do not exceed fifty million cigarettes shall each pay \$600.

Manufacturers of cigarettes whose annual sales exceed fifty million and do not exceed one hundred million cigarettes shall each pay \$1,200.

Manufacturers of cigarettes whose annual sales exceed one hundred million cigarettes shall each pay \$2,496.

In arriving at the amount of license tax to be paid hereunder, and in the levy and collection of such tax, each person, firm, or corporation engaged in the manufacture of cigars, cigarettes (including little cigars), or tobacco shall be considered and deemed a single manufacturer.

Annual inventories to be made by cigar and tobacco manufacturers and verified by collectors and their deputies. (T. D. 2057.)

Regulations and information as to certain requirements, together with synopsis of decisions made under the act of June 13, 1898, which will be given weight in determining similar questions arising under this act. (T. D. 2061.)

Penalty.

And every person who carries on any business or occupation for which special taxes are imposed by this act, without having paid the special tax herein provided, shall, besides being liable to the payment of such special tax, be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not more than \$500, or be imprisoned not more than six months, or both, at the discretion of the court: *Provided*, That the special taxes imposed by this act and payable during the special tax year ending June thirtieth, nineteen hundred and sixteen, shall be collected and paid proportionately for the period during which such taxes shall remain in force during said year.

Adhesive stamps; tax on instruments.

SEC. 5. That on and after the first day of December, nineteen hundred and fourteen, there shall be levied, collected, and paid, for and in respect of the several bonds, debentures, or certificates of stock and of indebtedness, and other documents, instruments, matters, and things mentioned and described in Schedule A of this act, or for or in respect of the vellum, parchment, or paper upon which such instruments, matters, or things, or any of them, shall be written or printed by any person or persons, or party who shall make, sign, or issue the same, or for whose use or benefit the same shall be made, signed, or issued, the several taxes or sums of money set down in figures against the same, respectively, or otherwise specified or set forth in the said schedule.

Powers or letters of attorney authorizing attorneys to represent creditors in bankruptcy proceedings, etc., must bear stamps, even though powers or letters are unnecessary. (*In re Capitol Trading Co., Inc.*, 229 Fed., 806.)

Order approving bond of trustee in bankruptcy must be stamped. (*In re Hawley*, 220 Fed., 372.)

Tax must be paid on certificates of shares issued by manufacturing company organized in form of trust under common law and which was not an ordinary common law real estate trust. (*Malley v. Bowditch*, 259 Fed., 809.)

This section is not invalid in its application to manufacturing company organized as a trust at common law, on theory that it was inapplicable to other associations. (*Id.*)

Taxes under Schedule B.

And there shall also be levied, collected, and paid, for and in respect to the preparations, matters, and things mentioned and described in Schedule B of this act, manufactured, sold, or removed for sale, the several taxes or sums of money set down in words or figures against the same, respectively, or otherwise specified or set forth in Schedule B of this act.

Penalty.

SEC. 6. That if any person or persons shall make, sign, or issue, or cause to be made, signed, or issued, any instrument, document, or paper of any kind or description whatsoever, without the same being duly stamped for denoting the tax hereby imposed thereon, or without having thereupon an adhesive stamp to denote said tax, such person or persons shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not more than \$100, at the discretion of the court.

Counterfeiting stamps; selling forged stamps; removing and reusing stamps; penalties.

SEC. 7. That if any person shall forge or counterfeit, or cause or procure to be forged or counterfeited, any stamp, die, plate, or other instrument, or any part of any stamp, die, plate, or other instrument, which shall have been provided, or may hereafter be provided, made, or used in pursuance of this act, or shall forge, counterfeit, or resemble, or cause or procure to be forged, counterfeited, or resembled, the impression, or any part of the impression, of any such stamp, die, plate, or other instrument, as aforesaid, upon any vellum, parchment, or paper, or shall stamp or mark, or cause or procure to be stamped or marked, any vellum, parchment, or paper with any such forged or

counterfeit stamp, die, plate, or other instrument, or part of any stamp, die, plate, or other instrument, as aforesaid, with intent to defraud the United States of any of the taxes hereby imposed, or any part thereof; or if any person shall utter, or sell, or expose for sale, any vellum, parchment, paper, article, or thing having thereupon the impression of any such counterfeited stamp, die, plate, or other instrument, or any part of any stamp, die, plate, or other instrument, or any such forged, counterfeited, or resembled impression, or part of impression, as aforesaid, knowing the same to be forged, counterfeited, or resembled; or if any person shall knowingly use or permit the use of any stamp, die, plate, or other instrument, which shall have been so provided, made, or used as aforesaid, with intent to defraud the United States; or if any person shall fraudulently cut, tear, or remove, or cause or procure to be cut, torn, or removed, the impression of any stamp, die, plate, or other instrument which shall have been provided, made, or used in pursuance of this act from any vellum, parchment, or paper, or any instrument or writing charged or chargeable with any of the taxes imposed by law; or if any person shall fraudulently use, join, fix, or place, or cause to be used, joined, fixed, or placed, to, with, or upon any vellum, parchment, paper, or any instrument or writing charged or chargeable with any of the taxes hereby imposed, any adhesive stamp, or the impression of any stamp, die, plate, or other instrument, which shall have been provided, made, or used in pursuance of law, and which shall have been cut, torn, or removed from any other vellum, parchment, or paper, or any instrument or writing charged or chargeable with any of the taxes imposed by law; or if any person shall willfully remove or cause to be removed, alter or cause to be altered, the canceling or defacing marks of any adhesive stamp with intent to use the same, or to cause the use of the same, after it shall have been once used, or shall knowingly or willfully sell or buy such washed or restored stamps, or offer the same for sale, or give or expose the same to any person for use, or knowingly use the same, or prepare the same with intent for the further use thereof; or if any person shall knowingly and without lawful excuse (the proof whereof shall lie on the person accused) have in his possession any washed, restored, or altered stamp which has been removed from any vellum, parchment, paper, instrument, or writing, then, and in every such case, every person so offending, and every person knowingly and willfully aiding, abetting, or assisting in committing any such offenses as aforesaid shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall forfeit the said counterfeit stamps and the articles upon which they are placed, and shall be punished by fine not exceeding \$1,000, or by imprisonment and confinement at hard labor not exceeding five years, or both, at the discretion of the court.

Cancellation of stamps; penalty.

SEC. 8. That in any and all cases where an adhesive stamp shall be used for denoting any tax imposed by this act, except as herein-after provided, the person using or affixing the same shall write or stamp thereupon the initials of his name and the date upon which the same shall be attached or used, so that the same may not again be used. And if any person shall fraudulently make use of an ad-

hesive stamp to denote any tax imposed by this act without so effectually canceling and obliterating such stamp, except as before mentioned, he, she, or they shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding \$500, or be imprisoned not more than six months, or both, at the discretion of the court: *Provided*, That instead of cancellation by initials and date, the stamps on the articles enumerated in Schedule B shall be so affixed on the box, bottle, or package that in opening the same, or using the contents thereof, the said stamp shall be effectually destroyed; and in default thereof the party making default shall be liable to the same penalty imposed for neglect to affix said stamp as hereinbefore prescribed in this act.

Persons issuing promissory note unstamped; penalty.

SEC. 9. That if any person or persons shall make, sign, or issue, or cause to be made, signed, or issued, or shall accept or pay, or cause to be accepted or paid, with design to evade the payment of any stamp tax, any promissory note liable to any of the taxes imposed by this act, without the same being duly stamped, or having thereupon an adhesive stamp for denoting the tax thereby charged thereon, he, she, or they shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding \$200, at the discretion of the court.

Collectors to furnish stamps; regulations.

SEC. 10. That the collectors of the several districts are hereby authorized and required to furnish to any assistant treasurer of the United States or designated depository thereof, or any postmaster located in their collection districts, respectively, a suitable quantity of adhesive stamps, without prepayment therefor, and may in advance require of any designated depository, assistant treasurer of the United States, or postmaster a bond, with sufficient sureties, to an amount equal to the value of the adhesive stamps which may be placed in his hands and remain unaccounted for, conditioned for the faithful return, whenever so required, of all quantities or amounts undisposed of, and for the payment monthly of all quantities or amounts sold or not remaining on hand. And it shall be the duty of such collectors to supply their deputies with, or sell to other parties within their respective districts who may make application therefor, adhesive stamps, upon the same terms allowed by law or under the regulations of the Commissioner of Internal Revenue, who is hereby authorized to make such other regulations, not inconsistent herewith, for the security of the United States and the better accommodation of the public, in relation to the matters hereinbefore mentioned, as he may judge necessary and expedient. And the Secretary of the Treasury may from time to time make such regulations as he may find necessary to insure the safe-keeping or prevent the illegal use of all such adhesive stamps.

Persons registering, issuing, etc., any instruments, documents, etc., without stamp; penalty; validating instruments.

SEC. 11. That any person or persons who shall register, issue, sell, or transfer, or who shall cause to be issued, registered, sold, or transferred, any instrument, document, or paper of any kind or descrip-

tion whatsoever mentioned in Schedule A of this act, without the same being duly stamped, or having thereupon an adhesive stamp for denoting the tax chargeable thereon, and canceled in the manner required by law, with intent to evade the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding \$50, or by imprisonment not exceeding six months, or both, in the discretion of the court: *Provided*, That hereafter, in all cases where the party has not affixed to any instrument the stamp required by law thereon at the time of issuing, selling, or transferring the said bonds, debentures, or certificates of stock or of indebtedness, and he or they, or any party having an interest therein, shall be subsequently desirous of affixing such stamp to said instrument, or, if said instrument be lost, to a copy thereof, he or they shall appear before the collector of internal revenue of the proper district, who shall, upon the payment of the price of the proper stamp required by law, and of a penalty of \$10, and, where the whole amount of the tax denoted by the stamp required shall exceed the sum of \$50, on payment also of interest at the rate of six per centum on said tax from the day on which such stamp ought to have been affixed, affix the proper stamp to such bond, debenture, certificate of stock or of indebtedness or copy, and note upon the margin thereof the date of his so doing, and the fact that such penalty has been paid; and the same shall thereupon be deemed and held to be as valid, to all intents and purposes, as if stamped when made or issued: *And provided further*, That where it shall appear to said collector, upon oath or otherwise, to his satisfaction, that any such instrument has not been duly stamped, at the time of making or issuing the same, by reason of accident, mistake, inadvertence, or urgent necessity, and without any willful design to defraud the United States of the stamp, or to evade or delay the payment thereof, then and in such case, if such instrument, or, if the original be lost, a copy thereof, duly certified by the officer having charge of any records in which such original is required to be recorded, or otherwise duly proven to the satisfaction of the collector, shall, within twelve calendar months after the making or issuing thereof, be brought to the said collector of internal revenue to be stamped, and the stamp tax chargeable thereon shall be paid, it shall be lawful for the said collector to remit the penalty aforesaid and to cause such instrument to be duly stamped. And when the original instrument, or a certified or duly proven copy thereof, as aforesaid, duly stamped so as to entitle the same to be recorded, shall be presented to the clerk, register, recorder, or other officer having charge of the original record, it shall be lawful for such officer, upon the payment of the fee legally chargeable for the recording thereof, to make a new record thereof, or to note upon the original record the fact that the error or omission in the stamping of said original instrument has been corrected pursuant to law; and the original instrument or such certified copy, or the record thereof, may be used in all courts and places in the same manner and with like effect as if the instrument had been originally stamped: *And provided further*, That in all cases where the party has not affixed the stamp required by law upon any such instrument issued, registered, sold, or transferred at a time when and at a place where no collection district was established, it shall be

lawful for him or them, or any party having an interest therein to affix the proper stamp thereto, or, if the original be lost, to a copy thereof. But no right acquired in good faith before the stamping of such instrument, or copy thereof, as herein provided, if such record be required by law, shall in any manner be affected by such stamping as aforesaid.

Instrument not to be recorded if unstamped; bonds, etc., issued in foreign countries to be stamped.

SEC. 12. That hereafter no instrument, paper, or document required by law to be stamped, which has been signed or issued without being duly stamped, or with a deficient stamp, nor any copy thereof, shall be recorded until a legal stamp or stamps, denoting the amount of tax, shall have been affixed thereto, as prescribed by law: *Provided*, That any bond, debenture, certificate of stock, or certificate of indebtedness issued in any foreign country shall pay the same tax as is required by law on similar instruments when issued, sold, or transferred in the United States; and the party to whom the same is issued, or by whom it is sold or transferred, shall, before selling or transferring the same, affix thereon the stamp or stamps indicating the tax required.

Issue of 2-year 6 per cent Treasury notes by Swedish Government in the amount of \$5,000,000 exempt from tax on promissory notes. (T. D. 2180.)

Not lawful to record instruments until stamped.

SEC. 13. That it shall not be lawful to record or register any instrument, paper, or document required by law to be stamped unless a stamp or stamps of the proper amount shall have been affixed and canceled in the manner prescribed by law.

Deeds delivered on and after December 1, 1914, must be stamped. Registers and recorders are required to take notice that instruments are stamped before acceptance for record. (T. D. 2042.)

Instrument not invalid on account of absence of particular denomination of stamp.

SEC. 14. That no instrument, paper, or document required by law to be stamped shall be deemed or held invalid and of no effect for the want of a particular kind or description of stamp designated for and denoting the tax charged on any such instrument, paper, or document, provided a legal documentary stamp or stamps denoting a tax of equal amount shall have been duly affixed and used thereon.

Exemptions.

SEC. 15. That all bonds, debentures, or certificates of indebtedness issued by the officers of the United States Government, or by the officers of any State, county, town, municipal corporation, or other corporation exercising the taxing power, shall be, and hereby are, exempt from the stamp taxes required by this act: *Provided*, That it is the intent hereby to exempt from the stamp taxes imposed by this act such State, county, town, or other municipal corporations in the exercise only of functions strictly belonging to them in their ordinary governmental, taxing, or municipal capacity: *Provided further*, That stock and bonds issued by cooperative building and

loan associations, mutual ditch or irrigating companies, and building and loan associations or companies that make loans only to their shareholders, shall be exempt from the tax herein provided.

The exemption of cooperative building and loan associations extends only to stocks and bonds issued by such associations or companies. (T. D. 2044.)

Transfers of stock of building and loan associations not subject to tax; notes given by or to such associations taxable. (T. D. 2112.)

Issue of 2-year 6 per cent Treasury notes by Swedish Government in the amount of \$5,000,000 exempt from tax on promissory notes. (T. D. 2180.)

Provisions as to dies and stamps applicable to Schedule B.

SEC. 16. That all the provisions of this act relating to dies, stamps, adhesive stamps, and stamp taxes shall extend to and include (except where manifestly inapplicable) all the articles or objects enumerated in Schedule B, subject to stamp taxes, and apply to the provisions in relation thereto.

When Schedule B takes effect; penalty.

SEC. 17. That on and after December first, nineteen hundred and fourteen, any person, firm, company, or corporation that shall make, prepare, and sell, or remove for consumption or sale, perfumery, cosmetics, preparations, compositions, articles, or things upon which a tax is imposed by this act, as provided for in Schedule B, without affixing thereto an adhesive stamp or label denoting the tax before mentioned shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not more than \$500, or be imprisoned not more than six months, or both, at the discretion of the court.

When tax effective. (T. D. 2038.)

Removing stamps, removing wrappers, etc.; penalty.

SEC. 18. That any manufacturer or maker of any of the articles for sale mentioned in Schedule B, after the same shall have been so made, and the particulars hereinbefore required as to stamps have been complied with, or any other person who shall take off, remove, or detach, or cause, or permit, or suffer to be taken off, or removed or detached, any stamp, or who shall use any stamp, or any wrapper or cover to which any stamp is affixed, to cover any other article or commodity than that originally contained in such wrapper or cover, with such stamp when first used, with the intent to evade the stamp duties, shall for every such article, respectively, in respect of which any such offense shall be committed, be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not more than \$500, or be imprisoned not more than six months, or both, at the discretion of the court, and every such article or commodity as aforesaid shall also be forfeited.

Articles in Schedule B; sending out before affixing stamps; penalty.

SEC. 19. That any maker or manufacturer of any of the articles or commodities mentioned in Schedule B, as aforesaid, or any other person who shall sell, send out, remove, or deliver any article or commodity, manufactured as aforesaid, before the tax thereon shall have

been fully paid by affixing thereon the proper stamp, as in this act provided, or who shall hide or conceal, or cause to be hidden or concealed, or who shall remove or convey away, or deposit, or cause to be removed or conveyed away from or deposited in any place, any such article or commodity, to evade the tax chargeable thereon, or any part thereof, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not more than \$500, or be imprisoned not more than six months, or both, at the discretion of the court, together with the forfeiture of any such article or commodity.

Regulations relative to perfumery, cosmetics, chewing gum, etc. (T. D. 2063; see also T. D. 2108.)

Penalty for selling or offering for sale unstamped articles subject to tax. (T. D. 2118.)

Articles for exportation.

Provided, That articles upon which stamp taxes are required by this act may, when intended for exportation, be manufactured and sold or removed without having stamps affixed thereto, and without being charged with tax as aforesaid; and every manufacturer or maker of any article as aforesaid, intended for exportation, shall give such bonds and be subject to such rules and regulations to protect the revenue against fraud as may be from time to time prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury.

Declaration in writing to be filed with collector monthly; penalty.

SEC. 20. That every manufacturer or maker of any of the articles or commodities provided for in Schedule B, or his foreman, agent, or superintendent shall at the end of each and every month make, sign, and file with the collector of internal revenue for the district in which he resides a declaration in writing that no such article or commodity has, during such preceding month or time when the last declaration was made, been removed, or carried, or sent, or caused or suffered or known to have been removed, carried, or sent from the premises of such manufacturer or maker other than such as have been duly taken account of and charged with the stamp tax, on pain of such manufacturer or maker forfeiting for every refusal or neglect to make such declaration \$100; and if any such manufacturer or maker, or his foreman, agent, or superintendent, shall make any false or untrue declaration, such manufacturer or maker, or foreman, agent, or superintendent making the same shall be deemed guilty of a misdemeanor, and upon conviction shall pay a fine of not more than \$500, or be imprisoned not more than six months, or both, at the discretion of the court.

Definition of manufacturer.

SEC. 21. That the stamp taxes prescribed in this act on the articles provided for in Schedule B shall attach to all such articles and things sold or removed for sale thirty days after the approval of this act. Every person, except as otherwise provided in this act, who offers or exposes for sale any article or thing provided for in said Schedule B, whether the article so offered or exposed is of foreign manufacture and imported or of domestic manufacture, shall be deemed the manu-

facturer thereof, and shall be subject to all the taxes, liabilities, and penalties imposed by law for the sale of articles without the use of the proper stamp denoting the tax paid thereon; and all such articles of foreign manufacture shall, in addition to the import duty imposed on the same, be subject to the stamp tax prescribed in this act.

When tax effective. (T. D. 2038.)

Stamps on imported merchandise.

Provided further, That internal revenue stamps required by existing law on imported merchandise shall be affixed thereto and canceled at the expense of the owner or importer before the withdrawal of such merchandise for consumption, and the Secretary of the Treasury is authorized to make such rules and regulations as may be necessary for the affixing and canceling of such stamps, not inconsistent herewith.

Stamps to be prepared; discount.

SEC. 22. That the Commissioner of Internal Revenue shall cause to be prepared and distributed for the payment of the taxes prescribed in this act suitable stamps denoting the tax on the document, article, or thing to which the same may be affixed, and he is authorized to prescribe such method for the cancellation of said stamps, as substitute for or in addition to the method provided in this act, as he may deem expedient. The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is authorized to procure any of the stamps provided for in this act by contract whenever such stamps can not be speedily prepared by the Bureau of Engraving and Printing; but this authority shall expire on the first day of November, nineteen hundred and fifteen, except as to imprinted stamps furnished under contract, authorized by the Commissioner of Internal Revenue. That the adhesive stamps used in the payment of the tax levied in Schedules A and B of this act shall be furnished for sale by the several collectors of internal revenue, who shall sell and deliver them at their face value to all persons applying for the same, except officers or employees of the Internal Revenue Service: *Provided*, That such collectors may sell and deliver such stamps in quantities of not less than \$100 of face value, with a discount of one per centum, except as otherwise provided in this act.

Postmasters and others authorized to be furnished stamps without prepayment not allowed discount unless stamps are paid for by them at the time. (T. D. 2055.)

SCHEDULE A.

Stamp taxes.

Bonds, debentures, or certificates of indebtedness issued on and after the first day of December, nineteen hundred and fourteen, by any association, company, or corporation, on each \$100 of face value or fraction thereof, 5 cents, and on each original issue, whether on organization or reorganization, of certificates of stock by any such association, company, or corporation, on each \$100 of face value or fraction thereof, 5 cents, and on all sales, or agreements to sell, or memoranda of sales or deliveries or transfers of shares or certificates

of stock in any association, company, or corporation, whether made upon or shown by the books of the association, company, or corporation, or by any assignment in blank, or by any delivery, or by any paper or agreement or memorandum or other evidence of transfer or sale, whether entitling the holder in any manner to the benefit of such stock, or to secure the future payment of money or for the future transfer of any stock, on each \$100 of face value or fraction thereof, 2 cents: *Provided*, That it is not intended by this act to impose a tax upon an agreement evidencing a deposit of stock certificates as collateral security for money loaned thereon, which stock certificates are not actually sold, nor upon such stock certificates so deposited: *Provided further*, That in case of sale where the evidence of transfer is shown only by the books of the company the stamp shall be placed upon such books; and where the change of ownership is by transfer certificate the stamp shall be placed upon the certificate; and in cases of an agreement to sell or where the transfer is by delivery of the certificate assigned in blank there shall be made and delivered by the seller to the buyer a bill or memorandum of such sale, to which the stamp shall be affixed; and every bill or memorandum of sale or agreement to sell before mentioned shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers. And any person or persons liable to pay the tax as herein provided, or anyone who acts in the matter as agent or broker for such person or persons, who shall make any such sale, or who shall in pursuance of any such sale deliver any such stock, or evidence of the sale of any such stock or bill or memorandum thereof, as herein required, without having the proper stamps affixed thereto, with intent to evade the foregoing provisions shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding \$1,000, or be imprisoned not more than six months, or both, at the discretion of the court.

Upon each sale, agreement of sale, or agreement to sell, any products or merchandise at any exchange, or board of trade, or other similar place, either for present or future delivery, for each \$100 in value of said sale or agreement of sale or agreement to sell, 1 cent, and for each additional \$100 or fractional part thereof in excess of \$100, 1 cent: *Provided*, That on every sale or agreement of sale or agreement to sell as aforesaid there shall be made and delivered by the seller to the buyer a bill, memorandum, agreement, or other evidence of such sale, agreement of sale, or agreement to sell, to which there shall be affixed a lawful stamp or stamps in value equal to the amount of the tax on such sale. And every such bill, memorandum, or other evidence of sale or agreement to sell shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers; and any person or persons liable to pay the tax as herein provided, or anyone who acts in the matter as agent or broker for such person or persons, who shall make any such sale or agreement of sale, or agreement to sell, or who shall, in pursuance of any such sale, agreement of sale, or agreement to sell, deliver any such products or merchandise without a bill, memorandum, or other evidence thereof as herein required, or who shall deliver such bill, memorandum, or other evidence of sale, or agreement to sell, without having the proper stamps affixed thereto, with intent to

evade the foregoing provisions, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding \$1,000, or be imprisoned not more than six months, or both, at the discretion of the court.

That no bill, memorandum, agreement, or other evidence of such sale, or agreement of sale, or agreement to sell, in case of products or merchandise actually delivered at the time of sale or while in vessel, boat, or car, and actually in course of transportation, shall be subject to this tax, provided such bill, memorandum, agreement, or other evidence of such sale, or agreement of sale, or agreement to sell shall be accompanied by bills of lading or vouchers, showing that the said products are actually in course of transportation as aforesaid.

Transfers of stock certificates, bills of lading, and passage tickets. (T. D. 2073.)

Sixth paragraph of T. D. 2073, regarding sales and transfers of certificates of stock through brokers, explained. (T. D. 2248.)

Placing documentary stamps upon certificates of stock exchanged for bonds surrendered. (T. D. 2155.)

Stamps may be affixed to mortgage securing the original issue of bonds and notation made on bonds. (T. D. 2164.)

Affixing documentary stamps to indentures, explanatory of T. D. 2164. (T. D. 2220.)

Affixing documentary stamps on account of borrowing and returning certificates of stock. (T. D. 2182.)

"Gold coupon notes" issued in series by a corporation under the terms and conditions of an indenture of trust are taxable under the first paragraph of Schedule A and not as promissory notes. (T. D. 2257.)

Proper method of affixing documentary stamps upon the transfer of certificates of stock. (T. D. 2275.)

Tax on sale of grain on exchange. (Calkins v. Smietanka, 240 Fed., 138.)

Promissory notes, except bank notes issued for circulation, and for each renewal of the same, for a sum not exceeding \$100, 2 cents; and for each additional \$100 or fractional part thereof in excess of \$100, 2 cents.

Clause in promissory notes authorizing confession of judgment is not taxable as a power of attorney. (T. D. 2081.)

Policy loan agreements giving merely a right of set-off not subject to tax as promissory notes; premium extension notes not promissory notes. (T. D. 2097.)

Coupons of interest notes attached to and forming part of the bond or principal note are not subject to tax as promissory notes, even though they are in the form of promissory notes. (T. D. 2101.)

Instructions regarding tax on promissory notes. (T. D. 2170.)

Renewals of promissory notes. (T. D. 2265.)

Express and freight: It shall be the duty of every railroad or steamboat company, carrier, express company, or corporation or person whose occupation is to act as such, to issue to the shipper or consignor, or his agent, or person from whom any goods are accepted for transportation, where a charge exceeding 5 cents is made, a bill of lading, manifest, or other evidence of receipt and forwarding for each shipment received for carriage and transportation whether in bulk or in boxes, bales, packages, bundles, or not so inclosed or included; and such shipper, consignor, agent, or person shall duly attach and cancel, as is in this act provided, to each of said bills of lading, manifests, or other memorandum, a stamp of the value of 1 cent: *Provided*, That a consignment of newspapers to any one point

or to different points by the same train or conveyance when inclosed in one general bundle at the point of shipment shall be considered as one shipment, and, in lieu of a bill of lading therefor, the publisher of such newspaper shall file on or before the fifteenth day of each month with the collector of internal revenue for the district in which such newspaper is published a report under oath showing the number of such shipments during the preceding month, to which report such publisher shall affix and cancel stamps equal in value to 1 cent for each shipment so reported: *Provided further*, That the report herein required shall not include shipments of newspapers delivered to points within the county in which the same are published. Any failure to issue such bill of lading, manifest, or other memorandum, as herein provided, shall subject such railroad or steamboat company, carrier, express company, or corporation or person to a penalty of \$50 for each offense.

It is the duty of the carrier to see that the stamp is duly affixed and canceled when the bill of lading is issued and delivered to the shipper. (T. Ds. 2059, 2092.)

The law requiring bills of lading to be stamped does not apply to local operators for the delivery of packages, baggage, and such like, within the limits of the same town or city. (T. D. 2065.)

Transfers of stock certificates, bills of lading, and passage tickets. (T. D. 2073.)

Tax required on bills of lading for export where there is an inland haul. (T. D. 2074.)

Bundles of newspapers. (T. Ds. 2036, 2075.)

Bills of lading. (T. D. 2113.)

Reconsignments. (T. Ds. 2122, 2136, 2264.)

Stamp tax on bills of lading must be paid by the shipper, ruling of the Interstate Commerce Commission. (T. D. 2169.)

Newspapers delivered to a carrier as one shipment requiring one stamp must be inclosed in one general bundle at the point of shipment, except where the shipment is to one consignee or to one destination. (T. D. 2184.)

Limited by exceptions enumerated and other exceptions relating to intercity shipments and operations by rail and water, all movements of freight from one city to another or within the limits of a city or place required to be covered by stamped receipts. (T. D. 2197.)

Telegraph and telephone messages: It shall be the duty of every person, firm, or corporation owning or operating any telegraph or telephone line or lines to make within thirty days after the expiration of each month a sworn statement to the collector of internal revenue in each of their respective districts, stating the number of dispatches, messages, or conversations originated at each of their respective exchanges, toll stations, or offices, and transmitted thence over their lines during the preceding month for which a charge of 15 cents or more was imposed, and for each of such messages or conversations the said person, firm, or corporation shall collect from the person paying for the message or conversation a tax of 1 cent in addition to the regular charges for the message or conversation, which tax the said person, firm, or corporation shall in turn pay to the said collector of internal revenue of their respective districts: *Provided*, That only one payment of said tax shall be required, notwithstanding the lines of one or more persons, firms, or corporations shall be used for the transmission of each of said messages or conversations: *Provided further*, That the messages or dispatches of the officers and employees of any telegraph or telephone company concerning the affairs and service of the company, and like messages or dispatches of the offi-

cials and employees of railroad companies sent over the wires on their respective railroads shall be exempt from this requirement: *And provided further*, That messages of officers and employees of the Government on official business shall be exempt from the taxes herein imposed upon telegraphic and telephonic messages.

Law and instructions relative to the tax imposed on telegraph and telephone messages. (T. D. 2058.)

Reporting messages received from rural or farmers' line associations by commercial companies furnishing service for which a charge of 15 cents is made. (T. D. 2160.)

Bond: For indemnifying any person or persons, firm, or corporation who shall have become bound or engaged as surety for the payment of any sum of money, or for the due execution or performance of the duties of any office or position, and to account for money received by virtue thereof, and all other bonds of any description, except such as may be required in legal proceedings, not otherwise provided for in this schedule, 50 cents.

Stamp tax on bonds and policies of insurance. (T. D. 2062.)

Bonds and other instruments executed by fidelity and other similar insurance companies. (T. D. 2072; see T. D. 2133.)

Liability to stamp tax on bonds and certificates in legal proceedings. (T. D. 2091.)

Bonds given for the direct exportation of goods not subject to stamp tax. (T. D. 2100.)

Bonds given by officials of a State, township, county, or village for the faithful performance of duties not subject to stamp tax. (T. D. 2111.)

Bonds issued by individuals which contain, in addition to the promise to pay money, certain penal conditions and provisions, are taxable as bonds at 50 cents each, and not as promissory notes. (T. D. 2165.)

Marriage bonds not taxable. (T. D. 2270.)

Bond executed by corporation for penal amount and containing certain penal conditions is taxable at rate of 50 cents, unless it is executed with surety transacting business of fidelity insurance, etc. (T. D. 2277.)

Tax liability as to bonds given in connection with seizures of goods under sections 3459 and 3460, R. S. (T. D. 2328.)

Certificate of profits, or any certificate or memorandum showing an interest in the property or accumulations of any association, company, or corporation, and on all transfers thereof, on each \$100 of face value or fraction thereof, 2 cents.

Certificate: Any certificate of damage, or otherwise, and all other certificates or documents issued by any port warden, marine surveyor, or other person, acting as such, 25 cents.

Certificate of any description required by law not otherwise specified in this act, 10 cents.

Certificates of deposit issued by banks not taxable. (T. D. 2054.)

Certificates issued by State officers in the interest of the State not liable to stamp tax. (T. D. 2071.)

Bonds and other instruments executed by fidelity and other similar insurance companies. (T. D. 2072.)

Marriage certificate. (T. D. 2308.)

Naturalization certificates. (T. D. 2329.)

Issuance of certificate must be mandatory under conditions and circumstances prescribed by law or it must be one which individual is expressly authorized to demand and receive, in order to be taxable; all such certificates are taxable except those given strictly in exercise of functions of the Government, State, or other political subdivision; certificates not required by express statute but required by regulations of executive department are not certificates required by law within meaning of act. (T. D. 2087.)

Contract: Broker's note, or memorandum of sale of any goods or merchandise, stocks, bonds, exchange, notes of hand, real estate, or property of any kind or description issued by brokers or persons acting as such, for each note or memorandum of sale, not otherwise provided for in this act, 10 cents.

Definition of brokers' notes or memoranda. (T. Ds. 2088, 2105.)

Conveyance: Deed, instrument, or writing, whereby any lands, tenements, or other realty sold shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his, her, or their direction, when the consideration or value of the interest or property conveyed, exclusive of the value of any lien or encumbrance thereon, exceeds \$100 and does not exceed \$500, 50 cents; and for each additional \$500 or fractional part thereof in excess of \$500, 50 cents: *Provided*, That nothing contained in this paragraph shall be so construed as to impose a tax upon any instrument or writing given to secure a debt.

Entry of any goods, wares, or merchandise at any customhouse, either for consumption or warehousing, not exceeding \$100 in value, 25 cents; exceeding \$100 and not exceeding \$500 in value, 50 cents; exceeding \$500 in value, \$1.

Entry for the withdrawal of any goods or merchandise from customs bonded warehouse, 50 cents.

Stamp required on bond accompanying a mortgage; stamp not required on certificate of officer taking acknowledgment of deeds and mortgages. (T. D. 2060.)

Explanation of T. D. 2060. (T. D. 2110.)

Relative to deeds, transfers of real estate, etc. (T. D. 2115.)

Explanation of T. D. 2115. (T. D. 2123.)

Stamp tax on deed of real property executed by sheriff or referee to mortgagee, who bid in the property at foreclosure sale to satisfy mortgage lien, should be computed upon the amount bid for the property, plus the costs, if paid by the purchaser. (T. D. 2159.)

Supplementing and construing ruling made in T. D. 2110. Bonds issued by individuals which contain, in addition to the promise to pay money, certain penal conditions and provisions, are taxable as bonds at 50 cents each, and not as promissory notes. (T. D. 2165.)

Documentary internal revenue stamps should be attached to master's deeds made pursuant to decree of United States District Court. (Crawford v. New South Farm and Home Co., 231 Fed., 999; T. D. 2253.)

Tax upon deeds executed by State officers not an interference with their duties or operation of State government. (Home Title Insurance Co. of New York v. Keith, 230 Fed., 905; T. D. 2310.)

Deeds executed by State, county, town, or other municipal corporation are not taxable. (T. D. 2283.)

Deeds executed and delivered on or before December 1, 1914, conveying property in pursuance of contract made prior to that time held taxable. (T. D. 2279.)

Stock in corporation held valuable consideration for transfer of real property. (T. D. 2278.)

Insurance: Each policy of insurance or other instrument, by whatever name the same shall be called, by which insurance shall be made or renewed upon property of any description (including rents or profits), whether against peril by sea or on inland waters, or by fire or lightning, or other peril, made by any person, association, or corporation, upon the amount of premium charged, one-half of 1 cent on each dollar or fractional part thereof: *Provided*, That purely cooperative

or mutual fire insurance companies or associations carried on by the members thereof solely for the protection of their own property and not for profit shall be exempted from the tax herein provided: *And provided further*, That policies of reinsurance shall be exempt from the tax herein imposed by this paragraph.

Each policy of insurance, or bond, or obligation of the nature of indemnity for loss, damage, or liability issued, or executed, or renewed by any person, association, company, or corporation, transacting the business of fidelity, employer's liability, plate glass, steam boiler, burglary, elevator, automatic sprinkler, or other branch of insurance (except life, personal accident, and health insurance, and insurance described and taxed or exempted in the preceding paragraph and excepting also workmen's compensation insurance carried on by the members thereof solely for their own protection and not for profit), and each bond undertaking or recognizance, conditioned for the performance of the duties of any office or position, or for the doing or not doing of anything therein specified, or other obligation of the nature of indemnity, and each contract or obligations guaranteeing the validity or legality of bonds or other obligations issued by any State, county, municipal, or other public body or organization, or guaranteeing titles to real estate or mercantile credits executed or guaranteed by any liability, fidelity, guarantee, or surety company upon the amount of premium charged, one-half of 1 cent on each dollar or fractional part thereof: *Provided*, That policies of reinsurance shall be exempt from the tax herein imposed by this paragraph.

Policies of fire insurance. (T. D. 2043.)

Bonds and policies of insurance. (T. D. 2062.)

Whether insurance company or policyholder shall pay tax. (T. D. 2068.)

Law and instructions relative to tax imposed on marine-insurance policies. (T. D. 2106.)

Policies of mutual companies which obtain profit not exempt, except as to reserve funds required by State law or as to working balance in bank. (T. D. 2114.)

Tax held to accrue upon the issuance of a continuous or long-term policy of insurance in proportion to the amount of premium due and payable when issued; stamps shall be affixed upon receipts covering payment of subsequent premiums or assessments. When whole premium due in advance, taxable upon issuance of policy. (T. D. 2119.)

Construction of the proviso exempting from taxation the policies of mutual fire insurance companies carried on by the members thereof for the protection of their own property and not for profit. (T. D. 2195.)

Mere incidental profit earned by way of interest on its invested safety funds or its bank balances does not change purely mutual character of company or indicate that its business is carried on for profit. (*Niles v. Central Manufacturers' Mutual Insurance Co.*, 252 Fed., 564; T. D. 2743.)

Mutual hail insurance company. (T. D. 2318.)

Increased tax due by reason of payment of subsequent premium on continuing bond or policy of insurance issued after December 1, 1914, should be represented by stamps affixed to premium receipt given, but where this has not been done, stamps should be forwarded to be affixed to policy itself. (T. Ds. 2281, 2287.)

Policies of fire insurance issued by Lloyds, of London, and delivered in United States on property in this country held taxable. (T. D. 2286.)

Cooperative associations which derive any income from investments of reserves are not associations carried on not for profit. (T. D. 2282.)

Passage ticket, for each passenger, sold in the United States for passage by any vessel to a foreign port or place, if costing not exceeding \$30, \$1; costing more than \$30 and not exceeding \$60, \$3; costing more than \$60, \$5: *Provided*, That such passage tickets, costing \$10 or less, shall be exempt from taxation.

Transfers of passage tickets. (T. D. 2073.)

Tax not required on passage tickets issued to members of foreign embassies or legations, or members of their households, or to consuls of foreign countries. (T. D. 2189.)

Power of attorney or proxy for voting at any election for officers of any incorporated company or association, except religious, charitable, or literary societies, or public cemeteries, 10 cents.

Instructions regarding tax. (T. D. 2129.)

Power of attorney to sell and convey real estate, or to rent or lease the same, to receive or collect rent, to sell or transfer any stock, bonds, scrip, or for the collection of any dividends or interest thereon, or to perform any and all other acts not hereinbefore specified, 25 cents: *Provided*, That no stamps shall be required upon any papers necessary to be used for the collection of claims from the United States for pensions, back pay, bounty, or for property lost in the military or naval service.

An instrument appointing an attorney in fact to transfer stock on the books of the company requires it to be stamped as a power of attorney, but an instrument authorizing the secretary to make the transfer is held not to be a power of attorney. (T. D. 2056.)

Clause in promissory notes authorizing confession of judgment is not taxable as a power of attorney. (T. D. 2081.)

Powers of attorney for transfer of stocks and bonds under certain conditions not subject to tax. (T. D. 2085.)

Instructions. (T. D. 2134; compare T. Ds. 2196, 2269.)

Tax on powers of attorney in bankruptcy proceedings and on certificate by referee in bankruptcy. (T. D. 2145.)

General letter of attorney, authorizing appointee to act for signer in bankruptcy proceedings, must be stamped. (In re Hawley, 220 Fed., 372.)

Power of attorney, authorizing attorney to represent creditors in bankruptcy proceedings, must bear stamps, even though power is unnecessary. (In re Capitol Trading Co., Inc., 229 Fed., 806.)

Protest: Upon the protest of every note, bill of exchange, acceptance, check, or draft, or any marine protest, whether protested by a notary public or by any other officer who may be authorized by the law of any State or States to make such protest, 25 cents.

Every seat sold in a palace or parlor car and every berth sold in a sleeping car, 1 cent, to be paid by the company selling the same.

Form prescribed for rendering monthly statement. (T. D. 2041.)

Digest of rulings under war-revenue act of June 13, 1898, identical with or essentially similar to this act published for convenience in construing. (T. D. 2051.)

Law and regulations concerning internal-revenue documentary stamps and taxes. (T. D. 2067.)

SCHEDULE B.

Perfumery and cosmetics and other similar articles: For and upon every packet, box, bottle, pot, phial, or other inclosure containing any essence, extract, toilet water, cosmetic, vaseline, petrolatum, hair oil, pomade, hair dressing, hair restorative, hair dye, tooth wash, dentifrice, tooth paste, aromatic cachous, or any similar substance or

article, by whatsoever name the same heretofore have been, now are, or may hereafter be called, known, or distinguished, used, or applied as perfumes or as cosmetics, and sold or removed for consumption and sale in the United States, where such packet, box, bottle, pot, phial, or other inclosure, with its contents, shall not exceed at the retail price or value the sum of 5 cents, one-eighth of 1 cent.

Where such packet, box, bottle, pot, phial, or other inclosure, with its contents, shall exceed the retail price or value of 5 cents, and shall not exceed the retail price or value of 10 cents, two-eighths of 1 cent.

Where such packet, box, bottle, pot, phial, or other inclosure, with its contents, shall exceed the retail price or value of 10 cents and shall not exceed the retail price or value of 15 cents, three-eighths of 1 cent.

Where such packet, box, bottle, pot, phial, or other inclosure, with its contents, shall exceed the retail price or value of 15 cents and shall not exceed the retail price or value of 25 cents, five-eighths of 1 cent. And for each additional 25 cents of retail price or value or fractional part thereof in excess of 25 cents, five-eighths of 1 cent.

Regulations relative to perfumery, cosmetics, chewing gum, etc. (T. Ds. 2063, 2108.)

Tax on talcum powders, bay rum, witch-hazel, and vaseline. (T. D. 2066.)

Instructions as to the handling of witch-hazel for medicinal use; not taxable. (T. D. 2086.)

Where claims are made by manufacturers of soaps as to the cosmetic and beautifying effects of their soaps on the skin, hair, etc., the tax must be paid. (T. D. 2094.)

Instructions and regulations in regard to tax payment and stamping tooth and mouth washes. (T. Ds. 2095, 2104.)

Instructions relative to tax payment and stamping hair oils, pomades, hair dressings, hair restoratives, hair dyes, etc. (T. D. 2096.)

Instructions relative to Packer's tar soap. (T. D. 2099.)

Instructions relative to tax payment and stamping listerine, peroxide of hydrogen, and similar compounds. (T. D. 2149.)

Exemption of Pears' soap. (T. D. 2156.)

Exemption of Palmolive soap. (T. D. 2157.)

Chewing gum or substitutes therefor: For and upon each box, carton, jar, or other package containing chewing gum of not more than \$1 of actual retail value, 4 cents; if exceeding \$1 of retail value, for each additional dollar or fractional part thereof, 4 cents; under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe.

Tax on chewing gum is based on the retail value, whether sold in small packages or in bulk. The articles must be retailed from stamped packages, whether sold over the counter or by means of a slot machine. (T. D. 2052.)

Chewing gum in broken packages to be stamped before sale at retail. (T. D. 2076.)

That all articles and preparations provided for in this schedule which are in the hands of manufacturers or of wholesale or retail dealers on and after December first, nineteen hundred and fourteen, shall be subject to the payment of the stamp taxes herein provided for, but it shall be deemed a compliance with this act as to such articles on hand in the hands of wholesale or retail dealers as aforesaid who are not the manufacturers thereof to affix the proper adhesive tax stamp at the time the packet, box, bottle, pot, or phial, or other inclosure, with its contents, is sold at retail.

Drawback.

There shall be an allowance of drawback on articles mentioned in Schedule B of this act on which any internal-revenue tax shall have been paid equal in amount to the stamp tax paid thereon, and no more, when exported, to be paid by the warrant of the Secretary of the Treasury on the Treasurer of the United States, out of any money arising from internal taxes not otherwise appropriated: *Provided*, That no allowance of drawback shall be made for any such articles exported prior to the date this act becomes effective. The evidence that any such tax has been paid as aforesaid shall be furnished to the satisfaction of the Commissioner of Internal Revenue by the person claiming the allowance of drawback, and the amount shall be ascertained under such regulations as shall be prescribed from time to time by said Commissioner. with the approval of the Secretary of the Treasury.

General provisions applicable; penalty; appropriation.

SEC. 23. That all administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, are hereby extended to and made a part of this act, and every person, firm, company, corporation, or association liable to any tax imposed by this act, or for the collection thereof, shall keep such records and render, under oath, such statements and returns, and shall comply with such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may from time to time prescribe, and every such person, firm, company, corporation, or association who evades or attempts to evade any of the taxes imposed by this act, or shall fail to truly account for and pay all taxes collected by them under this act, or any regulations issued thereunder, shall be subject to a penalty of double the amount of the taxes evaded or attempted to be evaded or unlawfully withheld, to be assessed and collected as other penalties incurred under internal-revenue laws are assessed and collected; and for the expense connected with the assessment and collection of the taxes provided by this act there is hereby appropriated \$200,000, or so much thereof as may be required, out of any money in the Treasury not otherwise appropriated; \$170,000 to be added to and made a part of the appropriations for "salaries and expenses of collection of internal revenue, nineteen hundred and fifteen; and \$30,000 to the appropriation for paper for internal-revenue stamps, nineteen hundred and fifteen."

Section 3224, R. S., applies to penalty imposed by this section; collector has authority to make assessment of penalties arising out of act; one is not relieved of penalty, for failure to pay tax, by section 22. (*Kohlhamer v. Smietanka*, 239 Fed., 408.)

Date act takes effect; how long in force; redemption of stamps.

SEC. 24. That the provisions of this act shall take effect on the day next succeeding the date of its passage, except where otherwise expressly provided: *Provided*, That on the day after the thirty-first day of December, nineteen hundred and fifteen, the taxes levied under this act shall no longer be levied and collected, but all taxes arising or accruing before said date shall continue to be collectible under the terms of this act: *Provided, however*, That on and after

the first day of January, nineteen hundred and sixteen, the provisions of section thirty-three hundred and thirty-nine of the Revised Statutes, as amended by an act approved April twelfth, nineteen hundred and two, imposing a tax on fermented liquors shall not be affected by any limitation as to the levying or collecting of the additional tax imposed by this act on such fermented liquors, but shall then be in full force and effect on and after the said first day of January, nineteen hundred and sixteen. All stamps provided for in this act unused after the aforesaid date shall be redeemed from the holder thereof, under such rules as the Secretary of the Treasury may prescribe.

Extension of act of October 22, 1914; appropriation.

JOINT RESOLUTION Extending the provisions of the act entitled "An act to increase the internal revenue, and for other purposes," approved October twenty-second, nineteen hundred and fourteen, to December thirty-first, nineteen hundred and sixteen. Approved December 17, 1915 (39 Stat. 2).

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled. That the provisions of the act entitled "An act to increase the internal revenue, and for other purposes," approved October twenty-second, nineteen hundred and fourteen (Statutes at Large, volume thirty-eight, pages seven hundred and forty-five to seven hundred and sixty-four, inclusive), are continued in full force and effect until and including December thirty-first, nineteen hundred and sixteen.

SEC. 2. That the appropriation for salaries and expenses of collectors of internal revenue, deputy collectors, surveyors, clerks, messengers, and janitors in internal-revenue offices for the fiscal year nineteen hundred and sixteen is made available for all expenses arising under the provisions of this joint resolution during the last half of the fiscal year nineteen hundred and sixteen, including not exceeding \$6,050 for payment of necessary personal services in the Office of the Commissioner of Internal Revenue in the District of Columbia.

Redemption of stamps.

AN ACT Making appropriations to supply deficiencies in appropriations for the fiscal year ending June thirtieth, nineteen hundred and seventeen, and prior fiscal years, and for other purposes. Approved April 17, 1917. (40 Stat., 3.)

* * * * *

SECTION 1. The Commissioner of Internal Revenue, subject to regulation prescribed by the Secretary of the Treasury, may make allowance for or redeem stamps, issued under authority of the act approved October twenty-second, nineteen hundred and fourteen, entitled "An act to increase the internal revenue, and for other purposes," and the joint resolution approved December seventeenth, nineteen hundred and fifteen, entitled "Joint resolution extending the provisions of the act entitled 'An act to increase the internal revenue, and for other purposes,' approved October twenty-second, nineteen hundred and fourteen, to December thirty-first, nineteen hundred and sixteen," to denote the payment of internal-revenue tax, and which have not been used, if presented prior to January first, nineteen hundred and eighteen.

* * * * *

Repeal of act of October 22, 1914.

SEC. 410. [*Act of September 8, 1916 (39 Stat., 756).*] That the act approved October twenty-second, nineteen hundred and fourteen, entitled "An act to increase the internal revenue, and for other purposes," and the joint resolution approved December seventeenth, nineteen hundred and fifteen, entitled "Joint resolution extending the provisions of the act entitled 'An act to increase the internal revenue, and for other purposes,' approved October twenty-second, nineteen hundred and fourteen, to December thirty-first, nineteen hundred and sixteen," are hereby repealed, except sections three and four of such act as so extended, which sections shall remain in force till January first, nineteen hundred and seventeen, and except that the provisions of the said act shall remain in force for the assessment and collection of all special taxes imposed by sections three and four thereof, or by such sections as extended by said joint resolution, for any year or part thereof ending prior to January first, nineteen hundred and seventeen, and of all other taxes imposed by such act, or by such act as so extended, accrued prior to the taking effect of this title, and for the imposition and collection of all penalties or forfeitures which have accrued or may accrue in relation to any of such taxes.

SEC. 1009. [*Act of February 24, 1919 (40 Stat., 1057).*] That the act approved October 22, 1914, entitled "An act to increase the internal revenue, and for other purposes," and the joint resolution approved December 17, 1915, entitled "Joint resolution extending the provisions of the act entitled 'An act to increase the internal revenue, and for other purposes,' approved October twenty-second, nineteen hundred and fourteen, to December thirty-first, nineteen hundred and sixteen," are hereby repealed, except that the provisions of such act shall remain in force for the assessment and collection of all special taxes imposed by sections 3 and 4 thereof, or by such sections as extended by such joint resolution, for any year or part thereof ending prior to January 1, 1917, and of all other taxes imposed by such act, or by such act as so extended, accrued prior to September 8, 1916, and for the imposition and collection of all penalties or forfeitures which have accrued or may accrue in relation to any of such taxes.

CHAPTER 10.

AN ACT TO INCREASE THE REVENUE AND FOR OTHER PURPOSES.
APPROVED SEPTEMBER 8, 1916 (39 STAT., 756).

Title I—Income tax.

Part I.—On individuals.

Normal tax; additional tax;
scope.
Income defined.
Additional tax includes undistributed profits.
Income exempt from law.
Deductions allowed.
Credits allowed.
Nonresident. aliens.
Personal exemption.
Returns.

Title I—Income tax—Continued.

Part I—Individuals—Continued.

Assessment and administration.
Part II—On corporations.
Imposition of tax.
Conditional and other exemptions.
Deductions.
Returns.
Assessment and administration.

Title I—Income tax—Continued.**Part III—General administrative provisions.**

"State;" "United States."

Section 3167, Revised Statutes, amended.

Section 3172, Revised Statutes, amended.

Section 3173, Revised Statutes, amended.

Section 3176, Revised Statutes, amended.

Receipts.

Penalties.

Verification of returns.

Compelling attendance of witnesses, etc.

Statistics.

Application of earlier laws, etc.

Porto Rico and Philippine Islands.

Repeal of Section II, act October 3, 1913.

Income under act of October 3, 1913.

New section.

Title II—Estate tax.

Definitions.

Imposition of tax; rates.

Determination of value of gross estate.

Determination of value of net estate.

Time of payment of tax.

Executor's duties; returns.

Return by collector.

To whom payment made; amount to be paid; interest; duplicate receipts.

Subjection of property.

Lien of tax; liability of transferee or trustee.

Penalties.

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Regulations.

Acceptance of Liberty bonds in payment of tax.

Title III—Munition manufacturer's tax.

Definitions.

Imposition of tax; rate; limitation.

Computation of net profits.

Gross amount deemed to be what.

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Title III—Munition manufacturer's tax—Continued.

Transmission of returns.

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Examination of books, etc.

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Title IV—Miscellaneous taxes.

Fermented liquor.

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Payment of taxes by stamp; notice; bond; inventories; labels; etc.

Withdrawal of grape brandy or wine spirits.

Wine spirits used free of tax.

Wine spirits defined; when water may be used; alcoholic strength when water has been used.

Withdrawal of spirits from warehouse free of tax.

Removal for storage on bonded premises.

Wines, liqueurs, and similar compounds.

Penalties.

Meters, locks, and seals.

Allowances for losses.

Section 3264, Revised Statutes, amended.

Withdrawal for export.

Section 3255, Revised Statutes, amended.

Gin; bottling in bond.

Section 3354, Revised Statutes, amended.

Special taxes.

Tobacco, cigar, and cigarette manufacturers.

Application of earlier laws; records and returns.

Partial repeal of earlier laws.

Allowance for or redemption of stamps.

Title effective when.

Leave of absence of revenue agents and inspectors.

Title IX:

Effect of partial invalidity of act.

Act effective when.

Citation of act.

TITLE I.—INCOME TAX.¹**PART I.—ON INDIVIDUALS.**

Normal tax; additional tax; scope.

SEC. 1. (a) That there shall be levied, assessed, collected, and paid annually upon the entire net income received in the preceding calendar year from all sources by every individual, a citizen or resident of the

¹ See Regulations No. 33 (T. D., 2690). Digitized by Google

United States, a tax of two per centum upon such income; and a like tax shall be levied, assessed, collected, and paid annually upon the entire net income received in the preceding calendar year from all sources within the United States by every individual, a nonresident alien, including interest on bonds, notes, or other interest-bearing obligations of residents, corporate or otherwise.

(b) In addition to the income tax imposed by subdivision (a) of this section (herein referred to as the normal tax) there shall be levied, assessed, collected, and paid upon the total net income of every individual, or, in the case of a nonresident alien, the total net income received from all sources within the United States, an additional income tax (herein referred to as the additional tax) of one per centum per annum upon the amount by which such total net income exceeds \$20,000 and does not exceed \$40,000, two per centum per annum upon the amount by which such total net income exceeds \$40,000 and does not exceed \$60,000, three per centum per annum upon the amount by which such total net income exceeds \$60,000 and does not exceed \$80,000, four per centum per annum upon the amount by which such total net income exceeds \$80,000 and does not exceed \$100,000, five per centum per annum upon the amount by which such total net income exceeds \$100,000 and does not exceed \$150,000, six per centum per annum upon the amount by which such total net income exceeds \$150,000 and does not exceed \$200,000, seven per centum per annum upon the amount by which such total net income exceeds \$200,000 and does not exceed \$250,000, eight per centum per annum upon the amount by which such total net income exceeds \$250,000 and does not exceed \$300,000, nine per centum per annum upon the amount by which such total net income exceeds \$300,000 and does not exceed \$500,000, ten per centum per annum upon the amount by which such total net income exceeds \$500,000 and does not exceed \$1,000,000, eleven per centum per annum upon the amount by which such total net income exceeds \$1,000,000 and does not exceed \$1,500,000, twelve per centum per annum upon the amount by which such total net income exceeds \$1,500,000 and does not exceed \$2,000,000, and thirteen per centum per annum upon the amount by which such total net income exceeds \$2,000,000.

For the purpose of the additional tax there shall be included as income the income derived from dividends on the capital stock or from the net earnings of any corporation, joint-stock company or association, or insurance company, except that in the case of non-resident aliens such income derived from sources without the United States shall not be included.

All the provisions of this title relating to the normal tax on individuals, so far as they are applicable and are not inconsistent with this subdivision and section three, shall apply to the imposition, levy, assessment, and collection of the additional tax imposed under this subdivision.

(c) The foregoing normal and additional tax rates shall apply to the entire net income, except as hereinafter provided, received by every taxable person in the calendar year nineteen hundred and sixteen and in each calendar year thereafter.

["Nonresident alien individual" defined as individual whose residence is not within United States, and who is not a citizen of United States; rules for determining residence stated. (T. D. 2794.)

Income defined.

SEC. 2. (a) That, subject only to such exemptions and deductions as are hereinafter allowed, the net income of a taxable person shall include gains, profits, and income derived from salaries, wages, or compensation for personal service of whatever kind and in whatever form paid, or from professions, vocations, businesses, trade, commerce, or sales, or dealings in property, whether real or personal, growing out of the ownership or use of or interest in real or personal property, also from interest, rent, dividends, securities, or the transaction of any business carried on for gain or profit, or gains or profits and income derived from any source whatever: *Provided*, That the term "dividends" as used in this title shall be held to mean any distribution made or ordered to be made by a corporation, joint-stock company, association, or insurance company, out of its earnings or profits accrued since March first, nineteen hundred and thirteen, and payable to its shareholders, whether in cash or in stock of the corporation, joint-stock company, association, or insurance company, which stock dividend shall be considered income, to the amount of its cash value.

Amended by section 1200, act October 3, 1917; p. 890.

Where, in 1907, the owner of land leased same for 23 years under an agreement requiring the tenant to construct an expensive brick building, and on the tenant's default the owner retook possession in 1916, the value of the building can not be deemed income accruing in the year 1917. (*Miller v. Gearin*, 258 Fed., 225.)

(b) Income received by estates of deceased persons during the period of administration or settlement of the estate, shall be subject to the normal and additional tax and taxed to their estates, and also such income of estates or any kind of property held in trust, including such income accumulated in trust for the benefit of unborn or unascertained persons, or persons with contingent interests, and income held for future distribution under the terms of the will or trust shall be likewise taxed, the tax in each instance, except when the income is returned for the purpose of the tax by the beneficiary, to be assessed to the executor, administrator, or trustee, as the case may be: *Provided*, That where the income is to be distributed annually or regularly between existing heirs or legatees, or beneficiaries the rate of tax and method of computing the same shall be based in each case upon the amount of the individual share to be distributed.

Such trustees, executors, administrators, and other fiduciaries are hereby indemnified against the claims or demands of every beneficiary for all payments of taxes which they shall be required to make under the provisions of this title, and they shall have credit for the amount of such payments against the beneficiary or principal in any accounting which they make as such trustees or other fiduciaries.

(c) For the purpose of ascertaining the gain derived from the sale or other disposition of property, real, personal, or mixed, acquired before March first, nineteen hundred and thirteen, the fair market price or value of such property as of March first, nineteen hundred and thirteen, shall be the basis for determining the amount of such gain derived.

Dividends paid out of amounts set aside to cover depreciation and depletion constitute taxable income to stockholders receiving them. (T. D. 2540.)

All gains, profits, and income from sale or exchange of farm products required to be included in return for year in which products were actually marketed and sold. (T. D. 2665.)

Additional tax includes undistributed profits.

SEC. 3. For the purpose of the additional tax, the taxable income of any individual shall include the share to which he would be entitled of the gains and profits, if divided or distributed, whether divided or distributed or not, of all corporations, joint-stock companies or associations, or insurance companies, however created or organized, formed or fraudulently availed of for the purpose of preventing the imposition of such tax through the medium of permitting such gains and profits to accumulate instead of being divided or distributed; and the fact that any such corporation, joint-stock company or association, or insurance company, is a mere holding company, or that the gains and profits are permitted to accumulate beyond the reasonable needs of the business, shall be prima facie evidence of a fraudulent purpose to escape such tax; but the fact that the gains and profits are in any case permitted to accumulate and become surplus shall not be construed as evidence of a purpose to escape the said tax in such case unless the Secretary of the Treasury shall certify that in his opinion such accumulation is unreasonable for the purposes of the business. When requested by the Commissioner of Internal Revenue, or any district collector of internal revenue, such corporation, joint-stock company or association, or insurance company shall forward to him a correct statement of such gains and profits and the names and addresses of the individuals or shareholders who would be entitled to the same if divided or distributed.

Income exempt from law.

SEC. 4. The following income shall be exempt from the provisions of this title:

The proceeds of life insurance policies paid to individual beneficiaries upon the death of the insured; the amount received by the insured, as a return of premium or premiums paid by him under life insurance, endowment, or annuity contracts, either during the term or at the maturity of the term mentioned in the contract or upon the surrender of the contract; the value of property acquired by gift, bequest, devise, or descent (but the income from such property shall be included as income); interest upon the obligations of a State or any political subdivision thereof or upon the obligations of the United States or its possessions or securities issued under the provisions of the Federal farm loan Act of July seventeenth, nineteen hundred and sixteen; the compensation of the present President of the United States during the term for which he has been elected, and the judges of the Supreme and inferior courts of the United States now in office, and the compensation of all officers and employees of a State, or any political subdivision thereof, except when such compensation is paid by the United States Government.

Amended by section 1200, act October 3, 1917; p. 890.

Salaries received under funds of Smith-Lever Act of May 8, 1914, as taxable income. (T. D. 2668.)

Articles 83 and 84 of Regulations No. 33, regarding interest upon obligations of State or any political subdivision thereof, revised. (T. D. 2715.)

Proceeds of accident insurance policies and amounts received as result of suit or compromise for personal injuries sustained through accident as taxable income. (T. D. 2747.)

Interest on Liberty bonds held or subscribed for by trustees, partnerships, or corporations. (T. D. 2762.)

Exemption of Liberty bonds and Victory notes. (T. D. 2836.)

Deductions allowed.

SEC. 5. That in computing net income in the case of a citizen or resident of the United States—

(a) For the purpose of the tax there shall be allowed as deductions—

First. The necessary expenses actually paid in carrying on any business or trade, not including personal, living, or family expenses;

Second. All interest paid within the year on his indebtedness;

Amended by section 1201 (1), act of October 3, 1917; p. 891.

Third. Taxes paid within the year imposed by the authority of the United States, or its Territories, or possessions, or any foreign country, or under the authority of any State, county, school district, or municipality, or other taxing subdivision of any State, not including those assessed against local benefits;

Amended by section 1201 (1), act of October 3, 1917; p. 891.

Fourth. Losses actually sustained during the year, incurred in his business or trade, or arising from fires, storms, shipwreck, or other casualty, and from theft, when such losses are not compensated for by insurance or otherwise: *Provided*, That for the purpose of ascertaining the loss sustained from the sale or other disposition of property, real, personal, or mixed, acquired before March first, nineteen hundred and thirteen, the fair market price or value of such property as of March first, nineteen hundred and thirteen, shall be the basis for determining the amount of such loss sustained;

Fifth. In transactions entered into for profit but not connected with his business or trade, the losses actually sustained therein during the year to an amount not exceeding the profits arising therefrom;

Sixth. Debts due to the taxpayer actually ascertained to be worthless and charged off within the year;

Seventh. A reasonable allowance for the exhaustion, wear and tear of property arising out of its use or employment in the business or trade;

Eighth. (a) In the case of oil and gas wells a reasonable allowance for actual reduction in flow and production to be ascertained not by the flush flow, but by the settled production or regular flow; (b) in the case of mines a reasonable allowance for depletion thereof not to exceed the market value in the mine of the product thereof, which has been mined and sold during the year for which the return and computation are made, such reasonable allowance to be made in the case of both (a) and (b) under rules and regulations to be prescribed by the Secretary of the Treasury: *Provided*, that when the allowances authorized in (a) and (b) shall equal the capital originally invested, or in case of purchase made prior to March first, nineteen hundred and thirteen, the fair market value as of that date, no further allowance shall be made. No deductions shall be allowed for any amount paid out for new buildings, permanent improvements, or better-

ments, made to increase the value of any property or estate, and no deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof for which an allowance is or has been made.

Amended by section 1201 (2), act of October 3, 1917, by adding paragraph "Ninth"; p. 891.

Credits allowed.

(b) For the purpose of the normal tax only, the income embraced in a personal return shall be credited with the amount received as dividends upon the stock or from the net earnings of any corporation, joint-stock company or association, trustee, or insurance company, which is taxable upon its net income as hereinafter provided;

(c) A like credit shall be allowed as to the amount of income, the normal tax upon which has been paid or withheld for payment at the source of the income under the provisions of this title.

Corporations, partnerships, or individuals paying officers or employees salaries and wages during war period in which they were in service of United States permitted to deduct amount so paid as ordinary and necessary expenses of doing business. (T. D. 2660.)

Treatment for taxation purposes of amounts ostensibly paid for compensation for services of officers and employees. (T. D. 2696.)

Basis of allowance for wear and tear of property arising out of its use or employment in business or trade. (T. D. 2754.)

Individuals engaged in mining may compute depletion deductions on basis of fair market value of mining content as of March 1, 1913, if property was acquired prior to that date, or on basis of cost, if acquired subsequently. (T. D. 2446.)

Individuals from whose property oil or gas is produced may deduct on account of depletion such percentage of fair market value as of March 1, 1913, of the oil or gas property, if acquired prior to that date, or of cost of property if acquired subsequently, as reduction in flow and production of the taxable year is percentage of flow and production of the previous year. (T. D. 2447.)

Nonresident aliens.

SEC. 6. That in computing net income in the case of a nonresident alien—

(a) For the purpose of the tax there shall be allowed as deductions—

First. The necessary expenses actually paid in carrying on any business or trade conducted by him within the United States, not including personal, living, or family expenses.

Second. The proportion of all interest paid within the year by such person on his indebtedness which the gross amount of his income for the year derived from sources within the United States bears to the gross amount of his income for the year derived from all sources within and without the United States, but this deduction shall be allowed only if such person includes in the return required by section eight all the information necessary for its calculation;

Amended by section 1202, act of October 3, 1917, p. 891.

Third. Taxes paid within the year imposed by the authority of the United States, or its Territories, or possessions, or under the authority of any State, county, school district, or municipality, or other taxing subdivision of any State, paid within the United States, not including those assessed against local benefits;

Amended by section 1202, act of October 3, 1917, p. 891.

Fourth. Losses actually sustained during the year, incurred in business or trade conducted by him within the United States, and losses of property within the United States arising from fires, storms, shipwreck, or other casualty, and from theft, when such losses are not compensated for by insurance or otherwise: *Provided*, That for the purpose of ascertaining the amount of such loss or losses sustained in trade, or speculative transactions not in trade, from the same or any kind of property acquired before March first, nineteen hundred and thirteen, the fair market price or value of such property as of March first, nineteen hundred and thirteen, shall be the basis for determining the amount of such loss or losses sustained;

Fifth. In transactions entered into for profit but not connected with his business or trade, the losses actually sustained therein during the year to an amount not exceeding the profits arising therefrom in the United States;

Sixth. Debts arising in the course of business or trade conducted by him within the United States due to the taxpayer actually ascertained to be worthless and charged off within the year;

Seventh. A reasonable allowance for the exhaustion, wear and tear of property within the United States arising out of its use or employment in the business or trade; (a) in the case of oil and gas wells a reasonable allowance for actual reduction in flow and production to be ascertained not by the flush flow, but by the settled production or regular flow; (b) in the case of mines a reasonable allowance for depletion thereof not to exceed the market value in the mine of the product thereof which has been mined and sold during the year for which the return and computation are made, such reasonable allowance to be made in the case of both (a) and (b) under rules and regulations to be prescribed by the Secretary of the Treasury: *Provided*, That when the allowance authorized in (a) and (b) shall equal the capital originally invested, or in case of purchase made prior to March first, nineteen hundred and thirteen, the fair market value as of that date, no further allowance shall be made. No deduction shall be allowed for any amount paid out for new buildings, permanent improvements, or betterments, made to increase the value of any property or estate, and no deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof for which an allowance is or has been made.

(b) There shall also be allowed the credits specified by subdivisions (b) and (c) of section five.

Amended by section 1202, act of October 3, 1917, by adding paragraph "(c)"; p. 892.

Personal exemption.

SEC. 7. (a) That for the purpose of the normal tax only, there shall be allowed as an exemption in the nature of a deduction from the amount of the net income of each of said persons, ascertained as provided herein, the sum of \$3,000, plus \$1,000 additional if the person making the return be a head of a family or a married man with a wife living with him, or plus the sum of \$1,000 additional if the person making the return be a married woman with a husband living with her; but in no event shall this additional exemption of \$1,000 be deducted by both a husband and a wife: *Provided*, That only one deduction of \$4,000 shall be made from the aggregate income of both husband and wife when living together: *Provided*

further, That guardians or trustees shall be allowed to make this personal exemption as to income derived from the property of which such guardian or trustee has charge in favor of each ward or cestui que trust: *Provided further*, That in no event shall a ward or cestui que trust be allowed a greater personal exemption than \$3,000, or, if married, \$4,000, as provided in this paragraph, from the amount of net income received from all sources. There shall also be allowed an exemption from the amount of the net income of estates of deceased persons during the period of administration or settlement, and of trust or other estates the income of which is not distributed annually or regularly under the provisions of paragraph (b), section two, the sum of \$3,000, including such deductions as are allowed under section five.

Amended by section 1203 (1), act of October 3, 1917; p. 892.

(b) A nonresident alien individual may receive the benefit of the exemption provided for in this section only by filing or causing to be filed with the collector of internal revenue a true and accurate return of his total income, received from all sources, corporate or otherwise, in the United States, in the manner prescribed by this title; and in case of his failure to file such return the collector shall collect the tax on such income, and all property belonging to such nonresident alien individual shall be liable to distraint for the tax.

Repealed by section 1203 (2), act of October 3, 1917; p. 892.

Head of family is person who actually supports and maintains one or more individuals who are closely connected with him by blood relationship, relationship by marriage or by adoption, and whose right to exercise family control and provide for these dependents is based upon some moral or legal obligation. (T. D. 2427.)

Heads of families and married men with wives living with them include only persons whose families or wives actually reside with them. (T. D. 2692.)

Returns

SEC. 8. (a) The tax shall be computed upon the net income, as thus ascertained, of each person subject thereto, received in each preceding calendar year ending December thirty-first.

(b) On or before the first day of March, nineteen hundred and seventeen, and the first day of March in each year thereafter, a true and accurate return under oath shall be made by each person of lawful age, except as hereinafter provided, having a net income of \$3,000 or over for the taxable year to the collector of internal revenue for the district in which such person has his legal residence or principal place of business, or if there be no legal residence or place of business in the United States, then with the collector of internal revenue at Baltimore, Maryland, in such form as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe, setting forth specifically the gross amount of income from all separate sources, and from the total thereof deducting the aggregate items of allowances herein authorized: *Provided*, That the Commissioner of Internal Revenue shall have authority to grant a reasonable extension of time, in meritorious cases, for filing returns of income by persons residing or traveling abroad who are required to make and file returns of income and who are unable to file said returns on or before March first of each year: *Provided further*, That the aforesaid return may be made by

an agent when by reason of illness, absence, or nonresidence the person liable for said return is unable to make and render the same, the agent assuming the responsibility of making the return and incurring penalties provided for erroneous, false, or fraudulent return.

(c) Guardians, trustees, executors, administrators, receivers, conservators, and all persons, corporations, or associations acting in any fiduciary capacity, shall make and render a return of the income of the person, trust, or estate for whom or which they act, and be subject to all the provisions of this title which apply to individuals. Such fiduciary shall make oath that he has sufficient knowledge of the affairs of such person, trust, or estate to enable him to make such return and that the same is, to the best of his knowledge and belief, true and correct, and be subject to all the provisions of this title which apply to individuals: *Provided*, That a return made by one of two or more joint fiduciaries filed in the district where such fiduciary resides, under such regulations as the Secretary of the Treasury may prescribe, shall be a sufficient compliance with the requirements of this paragraph.

Amended by section 1204 (1), act of October 3, 1917; p. 893.

(d) All persons, firms, companies, copartnerships, corporations, joint-stock companies, or associations, and insurance companies, except as hereinafter provided, in whatever capacity acting, having the control, receipt, disposal, or payment of fixed or determinable annual or periodical gains, profits, and income of another individual subject to tax, shall in behalf of such person deduct and withhold from the payment an amount equivalent to the normal tax upon the same and make and render a return, as aforesaid, but separate and distinct, of the portion of the income of each person from which the normal tax has been thus withheld, and containing also the name and address of such person or stating that the name and address or the address, as the case may be, are unknown: *Provided*, That the provision requiring the normal tax of individuals to be deducted and withheld at the source of the income shall not be construed to require the withholding of such tax according to the two per centum normal tax rate herein prescribed until on and after January first, nineteen hundred and seventeen, and the law existing at the time of the passage of this Act shall govern the amount withheld or to be withheld at the source until January first, nineteen hundred and seventeen.

That in either case mentioned in subdivisions (c) and (d) of this section no return of income not exceeding \$3,000 shall be required, except as in this title provided.

Repealed by section 1204 (2), act of October 3, 1917; p. 894.

(e) Persons carrying on business in partnership shall be liable for income tax only in their individual capacity, and the share of the profits of the partnership to which any taxable partner would be entitled if the same were divided, whether divided or otherwise, shall be returned for taxation and the tax paid under the provisions of this title: *Provided*, That from the net distributive interests on which the individual members shall be liable for tax, normal and additional, there shall be excluded their proportionate shares received from interest on the obligations of a State or any political or taxing subdivision thereof, and upon the obligations of the United States and its posses-

sions, and all taxes paid to the United States or to any possession thereof, or to any State, county, or taxing subdivision of a State, and that for the purpose of computing the normal tax there shall be allowed a credit, as provided by section five, subdivision (b), for their proportionate share of the profits derived from dividends. And such partnership, when requested by the Commissioner of Internal Revenue, or any district collector, shall render a correct return of the earnings, profits, and income of the partnership, except income exempt under section four of this Act, setting forth the item of the gross income and the deductions and credits allowed by this title, and the names and addresses of the individuals who would be entitled to the net earnings, profits, and income, if distributed.

Amended by section 1204 (1), act of October 3, 1917; p. 893.

(f) In every return shall be included the income derived from dividends on the capital stock or from the net earnings of any corporation, joint-stock company or association, or insurance company, except that in the case of nonresident aliens such income derived from sources without the United States shall not be included.

(g) An individual keeping accounts upon any basis other than that of actual receipts and disbursements, unless such other basis does not clearly reflect his income, may, subject to regulations made by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, make his return upon the basis upon which his accounts are kept, in which case the tax shall be computed upon his income as so returned.

Returns upon basis of inventories of merchandise, etc., and of securities held by dealers. (T. Ds. 2609, 2649, 2740, 2744.)

Instructions governing preparation of returns by farmers. (T. D. 2085.)

Assessment and administration.

SEC. 9. (a) That all assessments shall be made by the Commissioner of Internal Revenue and all persons shall be notified of the amount for which they are respectively liable on or before the first day of June of each successive year, and said amounts shall be paid on or before the fifteenth day of June, except in cases of refusal or neglect to make such return and in cases of erroneous, false, or fraudulent returns, in which cases the Commissioner of Internal Revenue shall, upon the discovery thereof, at any time within three years after said return is due, or has been made, make a return upon information obtained as provided for in this title or by existing law, or require the necessary corrections to be made, and the assessment made by the Commissioner of Internal Revenue thereon shall be paid by such person or persons immediately upon notification of the amount of such assessment; and to any sum or sums due and unpaid after the fifteenth day of June in any year, and for ten days after notice and demand thereof by the collector, there shall be added the sum of five per centum on the amount of tax unpaid, and interest at the rate of one per centum per month upon said tax from the time the same became due, except from the estates of insane, deceased, or insolvent persons.

(b) All persons, firms, copartnerships, companies, corporations, joint-stock companies, or associations, and insurance companies, in whatever capacity acting, including lessees or mortgagors of real or

personal property, trustees acting in any trust capacity, executors, administrators, receivers, conservators, employers, and all officers and employees of the United States having the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities, compensation, remuneration, emoluments, or other fixed or determinable annual or periodical gains, profits, and income of another person, exceeding \$3,000 for any taxable year, other than income derived from dividends on capital stock, or from the net earnings of corporations and joint-stock companies or associations, or insurance companies, the income of which is taxable under this title, who are required to make and render a return in behalf of another, as provided herein, to the collector of his, her, or its district, are hereby authorized and required to deduct and withhold from such annual or periodical gains, profits, and income such sum as will be sufficient to pay the normal tax imposed thereon by this title, and shall pay the amount withheld to the officer of the United States Government authorized to receive the same; and they are each hereby made personally liable for such tax, and they are each hereby indemnified against every person, corporation, association, or demand whatsoever for all payments which they shall make in pursuance and by virtue of this title.

In all cases where the income tax of a person is withheld and deducted and paid or to be paid at the source, such person shall not receive the benefit of the personal exemption allowed in section seven of this title except by an application for refund of the tax unless he shall, not less than thirty days prior to the day on which the return of his income is due, file with the person who is required to withhold and pay tax for him a signed notice in writing claiming the benefit of such exemption, and thereupon no tax shall be withheld upon the amount of such exemption: *Provided*, That if any person for the purpose of obtaining any allowance or reduction by virtue of a claim for such exemption, either for himself or for any other person, knowingly makes any false statement or false or fraudulent representation, he shall be liable to a penalty of not exceeding \$300.

And where the income tax is paid or to be paid at the source, no person shall be allowed the benefit of any deduction provided for in sections five or six of this title unless he shall, not less than thirty days prior to the day on which the return of his income is due, either (1) file with the person who is required to withhold and pay tax for him a true and correct return of his gains, profits, and income from all other sources, and also the deductions asked for, and the showing thus made shall then become a part of the return to be made in his behalf by the person required to withhold and pay the tax, or (2) likewise make application for deductions to the collector of the district in which return is made or to be made for him: *Provided*, That when any amount allowable as a deduction is known at the time of receipt of fixed annual or periodical income by an individual subject to tax, he may file with the person, firm, or corporation making the payment a certificate, under penalty for false claim, and in such form as shall be prescribed by the Commissioner of Internal Revenue, stating the amount of such deduction and making a claim for an

allowance of the same against the amount of tax otherwise required to be deducted and withheld at the source of the income, and such certificate shall likewise become a part of the return to be made in his behalf.

If such person is absent from the United States, or is unable owing to serious illness to make the return and application above provided for, the return and application may be made by an agent, he making oath that he has sufficient knowledge of the affairs and property of his principal to enable him to make a full and complete return, and that the return and application made by him are full and complete.

Amended by section 1205 (1), act of October 3, 1917; p. 894.

(c) The amount of the normal tax hereinbefore imposed shall be deducted and withheld from fixed or determinable annual or periodical gains, profits, and income derived from interest upon bonds and mortgages, or deeds of trust or other similar obligations of corporations, joint-stock companies, associations, and insurance companies, whether payable annually or at shorter or longer periods, although such interest does not amount to \$3,000, subject to the provisions of this title requiring the tax to be withheld at the source and deducted from annual income and returned and paid to the Government.

Amended by section 1205 (1), act of October 3, 1917; p. 894.

(d) And likewise the amount of such tax shall be deducted and withheld from coupons, checks, or bills of exchange for or in payment of interest upon bonds of foreign countries and upon foreign mortgages or like obligations (not payable in the United States), and also from coupons, checks, or bills of exchange for or in payment of any dividends upon the stock or interest upon the obligations of foreign corporations, associations, and insurance companies engaged in business in foreign countries.

Repealed by section 1205 (2), act of October 3, 1917; p. 895.

And the tax in such cases shall be withheld, deducted, and returned for and in behalf of any person subject to the tax hereinbefore imposed, although such interest or dividends do not exceed \$3,000, by (1) any banker or person who shall sell or otherwise realize coupons, checks, or bills of exchange drawn or made in payment of any such interest or dividends (not payable in the United States), and (2) any person who shall obtain payment (not in the United States), in behalf of another of such dividends and interest by means of coupons, checks, or bills of exchange, and also (3) any dealer in such coupons who shall purchase the same for any such dividends or interest (not payable in the United States), otherwise than from a banker or another dealer in such coupons.

(e) Where the tax is withheld at the source, the benefit of the exemption and the deductions allowable under this title may be had by complying with the foregoing provisions of this section.

Repealed by section 1205 (2), act of October 3, 1917; p. 895.

(f) All persons, firms, or corporations undertaking as a matter of business or for profit the collection of foreign payments of such interest or dividends by means of coupons, checks, or bills of exchange shall obtain a license from the Commissioner of Internal Revenue, and shall be subject to such regulations enabling the Government to

ascertain and verify the due withholding and payment of the income tax required to be withheld and paid as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe; and any person who shall knowingly undertake to collect such payments as aforesaid without having obtained a license therefor, or without complying with such regulations, shall be deemed guilty of a misdemeanor and for each offense be fined in a sum not exceeding \$5,000, or imprisoned for a term not exceeding one year, or both, in the discretion of the court.

Amended by section 1205 (1), act of October 3, 1917; p. 894.

(g) The tax herein imposed upon gains, profits, and income not falling under the foregoing and not returned and paid by virtue of the foregoing shall be assessed by personal return under rules and regulations to be prescribed by the Commissioner of Internal Revenue and approved by the Secretary of the Treasury. The intent and purpose of this title is that all gains, profits, and income of a taxable class, as defined by this title, shall be charged and assessed with the corresponding tax, normal and additional, prescribed by this title, and said tax shall be paid by the owner of such income, or the proper representative having the receipt, custody, control, or disposal of the same. For the purpose of this title ownership or liability shall be determined as of the year for which a return is required to be rendered.

The provisions of this title relating to the deduction and payment of the tax at the source of income shall only apply to the normal tax hereinbefore imposed upon individuals.

Amended by section 1205 (1), act of October 3, 1917; p. 894.

Corporations and other organizations exempt under section 11 of Part II are not relieved from withholding requirements of section 9. (T. D. 2407.)

Addition of 5 per cent penalty and interest where taxpayer is absent in foreign country or is travelling abroad or is absent from home or place of business in military or other service of the country. (T. D. 2679.)

Tax liability of income received from sources within the United States by foreign Governments or their resident agents. (T. D. 2425.)

PART II—ON CORPORATIONS.

Imposition of tax.

SEC. 10. That there shall be levied, assessed, collected, and paid annually upon the total net income received in the preceding calendar year from all sources by every corporation, joint-stock company or association, or insurance company, organized in the United States, no matter how created or organized but not including partnerships, a tax of two per centum upon such income; and a like tax shall be levied, assessed, collected, and paid annually upon the total net income received in the preceding calendar year from all sources within the United States by every corporation, joint-stock company or association, or insurance company organized, authorized, or existing under the laws of any foreign country, including interest on bonds, notes, or other interest-bearing obligations of residents, corporate or otherwise, and including the income derived from dividends on capital stock or from net earnings of resident corporations, joint-stock companies or associations, or insurance companies whose

net income is taxable under this title: *Provided*, That the term "dividends" as used in this title shall be held to mean any distribution made or ordered to be made by a corporation, joint-stock company, association, or insurance company, out of its earnings or profits accrued since March first, nineteen hundred and thirteen, and payable to its shareholders, whether in cash or in stock of the corporation, joint-stock company, association, or insurance company, which stock dividend shall be considered income, to the amount of its cash value.

The foregoing tax rate shall apply to the total net income received by every taxable corporation, joint-stock company or association, or insurance company in the calendar year nineteen hundred and sixteen and in each year thereafter, except that if it has fixed its own fiscal year under the provisions of existing law, the foregoing rate shall apply to the proportion of the total net income returned for the fiscal year ending prior to December thirty-first, nineteen hundred and sixteen, which the period between January first, nineteen hundred and sixteen, and the end of such fiscal year bears to the whole of such fiscal year, and the rate fixed in Section II of the Act approved October third, nineteen hundred and thirteen, entitled "An Act to reduce tariff duties and to provide revenue for the Government, and for other purposes," shall apply to the remaining portion of the total net income returned for such fiscal year.

For the purpose of ascertaining the gain derived or loss sustained from the sale or other disposition by a corporation, joint-stock company or association, or insurance company, of property, real, personal, or mixed, acquired before March first, nineteen hundred and thirteen, the fair market price or value of such property as of March first, nineteen hundred and thirteen, shall be the basis for determining the amount of such gain derived or loss sustained.

Amended by section 1206, act of October 3, 1917; p. 895.

Conditional and other exemptions.

SEC. 11. (a) That there shall not be taxed under this title any income received by any—

First. Labor, agricultural, or horticultural organization;

Second. Mutual savings bank not having a capital stock represented by shares;

Third. Fraternal beneficiary society, order, or association, operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents;

Fourth. Domestic building and loan association and cooperative banks without capital stock organized and operated for mutual purposes and without profit;

Fifth. Cemetery company owned and operated exclusively for the benefit of its members;

Sixth. Corporation or association organized and operated exclusively for religious, charitable, scientific, or educational purposes, no part of the net income of which inures to the benefit of any private stockholder or individual;

Seventh. Business league, chamber of commerce, or board of trade, not organized for profit and no part of the net income of which inures to the benefit of any private stockholder or individual;

Eighth. Civic league or organization not organized for profit but operated exclusively for the promotion of social welfare;

Ninth. Club organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, no part of the net income of which inures to the benefit of any private stockholder or member;

Tenth. Farmers' or other mutual hail, cyclone, or fire insurance company, mutual ditch or irrigation company, mutual or cooperative telephone company, or like organization of a purely local character, the income of which consists solely of assessments, dues, and fees collected from members for the sole purpose of meeting its expenses;

Eleventh. Farmers', fruit growers', or like association, organized and operated as a sales agent for the purpose of marketing the products of its members and turning back to them the proceeds of sales, less the necessary selling expenses, on the basis of the quantity of produce furnished by them;

Twelfth. Corporation or association organized for the exclusive purpose of holding title to property, collecting income therefrom, and turning over the entire amount thereof, less expenses, to an organization which itself is exempt from the tax imposed by this title; or

Thirteenth. Federal land banks and national farm-loan associations as provided in section twenty-six of the Act approved July seventeenth, nineteen hundred and sixteen, entitled "An Act to provide capital for agricultural development, to create standard forms of investment based upon farm mortgage, to equalize rates of interest upon farm loans, to furnish a market for United States bonds, to create Government depositories and financial agents for the United States, and for other purposes."

Fourteenth. Joint stock land banks as to income derived from bonds or debentures of other joint stock land banks or any Federal land bank belonging to such joint stock land bank.

(b) There shall not be taxed under this title any income derived from any public utility or from the exercise of any essential governmental function accruing to any State, Territory, or the District of Columbia, or any political subdivision of a State or Territory, nor any income accruing to the government of the Philippine Islands or Porto Rico, or of any political subdivision of the Philippine Islands or Porto Rico: Provided, That whenever any State, Territory, or the District of Columbia, or any political subdivision of a State or Territory, has, prior to the passage of this title, entered in good faith into a contract with any person or corporation, the object and purpose of which is to acquire, construct, operate, or maintain a public utility, no tax shall be levied under the provisions of this title upon the income derived from the operation of such public utility, so far as the payment thereof will impose a loss or burden upon such State, Territory, or the District of Columbia, or a political subdivision of a State or Territory; but this provision is not intended to confer upon such person or corporation any financial gain or exemption or to relieve such person or corporation from the payment of a tax as provided for in this title upon the part or portion of the said income to

which such person or corporation shall be entitled under such contract.

Corporations and other organizations exempt on incomes under this section are not relieved from withholding requirements set forth in section 9. (T. D. 2407.)

Cooperative merchandising organizations held subject to provisions of this act. (T. D. 2737.)

Proof necessary to be filed by certain organizations to establish the fact that they are exempt. (T. D. 2693.)

Exemption of corporation dividends paid in form of Liberty loan bonds. (T. D. 2512.)

Deductions.

SEC. 12. (a) In the case of a corporation, joint-stock company or association, or insurance company, organized in the United States, such net income shall be ascertained by deducting from the gross amount of its income received within the year from all sources—

First. All the ordinary and necessary expenses paid within the year in the maintenance and operation of its business and properties, including rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking title, or in which it has no equity.

Second. All losses actually sustained and charged off within the year and not compensated by insurance or otherwise, including a reasonable allowance for the exhaustion, wear and tear of property arising out of its use or employment in the business or trade; (a) in the case of oil and gas wells a reasonable allowance for actual reduction in flow and production to be ascertained not by the flush flow, but by the settled production or regular flow; (b) in the case of mines a reasonable allowance for depletion thereof not to exceed the market value in the mine of the product thereof which has been mined and sold during the year for which the return and computation are made, such reasonable allowance to be made in the case of both (a) and (b) under rules and regulations to be prescribed by the Secretary of the Treasury: *Provided*, That when the allowance authorized in (a) and (b) shall equal the capital originally invested, or in case of purchase made prior to March first, nineteen hundred and thirteen, the fair market value as of that date, no further allowance shall be made; and (c) in the case of insurance companies, the net addition, if any, required by law to be made within the year to reserve funds and the sums other than dividends paid within the year on policy and annuity contracts: *Provided*, That no deduction shall be allowed for any amount paid out for new buildings, permanent improvements, or betterments made to increase the value of any property or estate, and no deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof for which an allowance is or has been made: *Provided further*, That mutual fire and mutual employers' liability and mutual workmen's compensation and mutual casualty insurance companies requiring their members to make premium deposits to provide for losses and expenses shall not return as income any portion of the premium deposits returned to their policyholders, but shall return as taxable income all income received by them from all other sources plus such portions of the premium deposits as are retained by the companies for purposes

other than the payment of losses and expenses and reinsurance reserves: *Provided further*, That mutual marine insurance companies shall include in their return of gross income gross premiums collected and received by them less amounts paid for reinsurance, but shall be entitled to include in deductions from gross income amounts repaid to policyholders on account of premiums previously paid by them and interest paid upon such amounts between the ascertainment thereof and the payment thereof, and life insurance companies shall not include as income in any year such portion of any actual premium received from any individual policyholder as shall have been paid back or credited to such individual policyholder, or treated as an abatement of premium of such individual policyholder, within such year;

Third. The amount of interest paid within the year on its indebtedness to an amount of such indebtedness not in excess of the sum of (a) the entire amount of the paid-up capital stock outstanding at the close of the year, or, if no capital stock, the entire amount of capital employed in the business at the close of the year, and (b) one-half of its interest-bearing indebtedness then outstanding: *Provided*, That for the purpose of this title preferred capital stock shall not be considered interest-bearing indebtedness, and interest or dividends paid upon this stock shall not be deductible from gross income: *Provided further*, That in cases wherein shares of capital stock are issued without par or nominal value, the amount of paid-up capital stock, within the meaning of this section, as represented by such shares, will be the amount of cash, or its equivalent, paid or transferred to the corporation as a consideration for such shares: *Provided further*, That in the case of indebtedness wholly secured by property collateral, tangible or intangible, the subject of sale or hypothecation in the ordinary business of such corporation, joint-stock company or association as a dealer only in the property constituting such collateral, or in loaning the funds thereby procured, the total interest paid by such corporation, company, or association within the year on any such indebtedness may be deducted as a part of its expenses of doing business, but interest on such indebtedness shall only be deductible on an amount of such indebtedness not in excess of the actual value of such property collateral: *Provided further*, That in the case of bonds or other indebtedness, which have been issued with a guaranty that the interest payable thereon shall be free from taxation, no deduction for the payment of the tax herein imposed, or any other tax paid pursuant to such guaranty, shall be allowed; and in the case of a bank, banking association, loan or trust company, interest paid within the year on deposits or on moneys received for investment and secured by interest-bearing certificates of indebtedness issued by such bank, banking association, loan or trust company;

Amended by section 1207 (1), act of October 3, 1917; p. 896.

Fourth. Taxes paid within the year imposed by the authority of the United States, or its Territories, or possessions, or any foreign country, or under the authority of any State, county, school district, or municipality, or other taxing subdivision of any State, not including those assessed against local benefits.

Amended by section 1207 (1), act of October 3, 1917; p. 896.

(b) In the case of a corporation, joint-stock company or association, or insurance company, organized, authorized, or existing under the laws of any foreign country, such net income shall be ascertained by deducting from the gross amount of its income received within the year from all sources within the United States—

First. All the ordinary and necessary expenses actually paid within the year out of earnings in the maintenance and operation of its business and property within the United States, including rentals or other payments required to be made as a condition to the continued use or possession of property to which the corporation has not taken or is not taking title, or in which it has no equity.

Second. All losses actually sustained within the year in business or trade conducted by it within the United States and not compensated by insurance or otherwise, including a reasonable allowance for the exhaustion, wear and tear of property arising out of its use or employment in the business or trade; (a) and in the case of oil and gas wells a reasonable allowance for actual reduction in flow and production to be ascertained not by the flush flow, but by the settled production or regular flow; (b) in the case of mines a reasonable allowance for depletion thereof not to exceed the market value in the mine of the product thereof which has been mined and sold during the year for which the return and computation are made, such reasonable allowance to be made in the case of both (a) and (b) under rules and regulations to be prescribed by the Secretary of the Treasury: *Provided*, That when the allowance authorized in (a) and (b) shall equal the capital originally invested, or in case of purchase made prior to March first, nineteen hundred and thirteen, the fair market value as of that date, no further allowance shall be made; and (c) in the case of insurance companies, the net addition, if any, required by law to be made within the year to reserve funds and the sums other than dividends paid within the year on policy and annuity contracts: *Provided*, That no deduction shall be allowed for any amount paid out for new buildings, permanent improvements, or betterments, made to increase the value of any property or estate, and no deduction shall be made for any amount of expense of restoring property or making good the exhaustion thereof for which an allowance is or has been made: *Provided further*, That mutual fire and mutual employers' liability and mutual workmen's compensation and mutual casualty insurance companies requiring their members to make premium deposits to provide for losses and expenses shall not return as income any portion of the premium deposits returned to their policyholders, but shall return as taxable income all income received by them from all other sources plus such portions of the premium deposits as are retained by the companies for purposes other than the payment of losses and expenses and reinsurance reserves: *Provided further*, That mutual marine insurance companies shall include in their return of gross income gross premiums collected and received by them less amounts paid for reinsurance, but shall be entitled to include in deductions from gross income amounts repaid to policyholders on account of premiums previously paid by them, and interest paid upon such amounts between the ascertainment thereof and the payment thereof, and life insurance companies shall not include as income in any year such portion of any actual premium received from any individual policyholder as shall have been

paid back or credited to such individual policyholder, or treated as an abatement of premium of such individual policyholder, within such year;

Third. The amount of interest paid within the year on its indebtedness to an amount of such indebtedness not in excess of the proportion of the sum of (a) the entire amount of the paid-up capital stock outstanding at the close of the year, or, if no capital stock, the entire amount of the capital employed in the business at the close of the year, and (b) one-half of its interest-bearing indebtedness then outstanding, which the gross amount of its income for the year from business transacted and capital invested within the United States bears to the gross amount of its income derived from all sources within and without the United States: *Provided*, That in the case of bonds or other indebtedness which have been issued with a guaranty that the interest payable thereon shall be free from taxation, no deduction for the payment of the tax herein imposed or any other tax paid pursuant to such guaranty shall be allowed; and in case of a bank, banking association, loan or trust company, or branch thereof, interest paid within the year on deposits by or on moneys received for investment from either citizens or residents of the United States and secured by interest-bearing certificates of indebtedness issued by such bank, banking association, loan or trust company, or branch thereof;

Amended by section 1207 (2), act of October 3, 1917; p. 897.

Fourth. Taxes paid within the year imposed by the authority of the United States, or its Territories, or possessions, or under the authority of any State, county, school district, or municipality, or other taxing subdivision of any State, paid within the United States, not including those assessed against local benefits;

Amended by section 1207 (2), act of October 3, 1917; p. 897.

(c) In the case of assessment insurance companies, whether domestic or foreign, the actual deposit of sums with State or Territorial officers, pursuant to law, as additions to guarantee or reserve funds shall be treated as being payments required by law to reserve funds.

Reasonable allowance for wear and tear of property to be based on cost of property or its fair market price or value as of March 1, 1913, if acquired prior thereto. (T. D. 2754.)

Treatment for taxation purposes of amounts ostensibly paid as compensation for services of officers and employees of business enterprises. (T. D. 2696.)

Corporations, partnerships or individuals paying officers or business employees salaries and wages during war period in which they are in service of United States may deduct amounts paid as expenses. (T. D. 2660.)

Gifts or bonuses to employees may be deducted when made in good faith and as additional compensation for services actually rendered. (T. D. 2616.)

Premiums paid on policies insuring in favor of corporations lives of officers and employees are not deductible; to extent that such payments have not been previously deducted they may be deducted from proceeds of policy when such proceeds are received, net proceeds being returned as income. (T. D. 2519.)

Organization expenses are not an allowable deduction. (T. D. 2499.)

Reserves for depreciation and depletion held to constitute proper deduction, if reasonable, and are not to be disallowed if converted into other forms of assets. (T. D. 2481.)

Corporations from whose property oil or gas is produced may deduct on account of depletion such percentage of fair market value as of March 1, 1913, of the oil or gas property, if acquired prior to that date, or of cost of property if acquired subsequently, as reduction in flow and production of taxable year is percentage of flow and production of previous year. (T. D. 2447.)

Corporations engaged in mining may compute depletion deductions on basis of fair market value of mining content as of March 1, 1913, if property was acquired prior to that date, or on basis of cost, if acquired subsequently. (T. D. 2446.)

Return.

SEC. 13. (a) The tax shall be computed upon the net income, as thus ascertained, received within each preceding calendar year ending December thirty-first: *Provided*, That any corporation, joint-stock company or association, or insurance company, subject to this tax, may designate the last day of any month in the year as the day of the closing of its fiscal year and shall be entitled to have the tax payable by it computed upon the basis of the net income ascertained as herein provided for the year ending on the day so designated in the year preceding the date of assessment instead of upon the basis of the net income for the calendar year preceding the date of assessment; and it shall give notice of the day it has thus designated as the closing of its fiscal year to the collector of the district in which its principal business office is located at any time not less than thirty days prior to the first day of March of the year in which its return would be filed if made upon the basis of the calendar year;

(b) Every corporation, joint-stock company or association, or insurance company, subject to the tax herein imposed, shall, on or before the first day of March, nineteen hundred and seventeen, and the first day of March in each year thereafter, or, if it has designated a fiscal year for the computation of its tax, then within sixty days after the close of such fiscal year ending prior to December thirty-first, nineteen hundred and sixteen, and the close of each such fiscal year thereafter, render a true and accurate return of its annual net income in the manner and form to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, and containing such facts, data, and information as are appropriate and in the opinion of the commissioner necessary to determine the correctness of the net income returned and to carry out the provisions of this title. The return shall be sworn to by the president, vice president, or other principal officer, and by the treasurer or assistant treasurer. The return shall be made to the collector of the district in which is located the principal office of the corporation, company, or association, where are kept its books of account and other data from which the return is prepared, or in the case of a foreign corporation, company, or association, to the collector of the district in which is located its principal place of business in the United States, or if it have no principal place of business, office, or agency in the United States, then to the collector of internal revenue at Baltimore, Maryland. All such returns shall as received be transmitted forthwith by the collector to the Commissioner of Internal Revenue;

(c) In cases wherein receivers, trustees in bankruptcy, or assignees are operating the property or business of corporations, joint-stock

companies or associations, or insurance companies, subject to tax imposed by this title, such receivers, trustees, or assignees shall make returns of net income as and for such corporations, joint-stock companies or associations, and insurance companies, in the same manner and form as such organizations are hereinbefore required to make returns, and any income tax due on the basis of such returns made by receivers, trustees, or assignees shall be assessed and collected in the same manner as if assessed directly against the organizations of whose business or properties they have custody and control;

Trustee of bankrupt corporation, who is not carrying on its business, but has received funds as result of compromise made by him with foreign corporation of claim for nonpayment of salary and commissions, is not liable to pay income tax under this section. (In re Heller, Hirsch & Co. 258 Fed. 208.)

(d) A corporation, joint-stock company or association, or insurance company, keeping accounts upon any basis other than that of actual receipts and disbursements, unless such other basis does not clearly reflect its income, may, subject to regulations made by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, make its return upon the basis upon which its accounts are kept, in which case the tax shall be computed upon its income as so returned;

(e) All the provisions of this title relating to the tax authorized and required to be deducted and withheld and paid to the officer of the United States Government authorized to receive the same from the income of nonresident alien individuals from sources within the United States shall be made applicable to incomes derived from interest upon bonds and mortgages or deeds of trust or similar obligations of domestic or other resident corporations, joint-stock companies or associations, and insurance companies by nonresident alien firms, copartnerships, companies, corporations, joint-stock companies or associations, and insurance companies not engaged in business or trade within the United States and not having any office or place of business therein;

Amended by section 1208, act of October 3, 1917; p. 898.

(f) Likewise, all the provisions of this title relating to the tax authorized and required to be deducted and withheld and paid to the officer of the United States Government authorized to receive the same from the income of nonresident alien individuals from sources within the United States shall be made applicable to income derived from dividends upon the capital stock or from the net earnings of domestic or other resident corporations, joint-stock companies or associations, and insurance companies by nonresident alien companies, corporations, joint-stock companies or associations, and insurance companies not engaged in business or trade within the United States and not having any office or place of business therein.

Returns on basis of inventories of merchandise, etc., and of securities held by dealers. (T. Ds. 2609, 2649, 2740, 2744.)

Corporations may distribute earnings for accounting period ratably over period for purpose of ascertaining earnings to date of dividend payment within such period. (T. D. 2678.)

Where books are kept on an accrued basis, accrued interest may be deducted. (T. D. 2625.)

Corporations keeping books according to standard system, or in conformity with requirements of some Federal, State, or municipal authority, may make returns on basis on which books are kept, provided books and returns reflect true net income. (T. D. 2433.)

Nonresident alien record owners authorized to use income-tax certificate Form 1087 to disclose actual ownership and claim exemption from withholding at source of domestic dividend payments. (T. D. 2452; revising and modifying T. Ds. 2382 and 2401.)

Form 1012 adopted for use by debtor corporation in reporting income tax withheld from dividends paid to nonresident alien corporations, etc. (T. D. 2388.)

Disclosure of identity of actual owners of stock by Dutch administration offices. (T. Ds. 2386 and 2669.)

Claim of exemption from withholding normal tax at source of income in United States by nonresident alien corporation, etc. (T. D. 2374.)

Assessment and administration.

SEC. 14. (a) All assessments shall be made and the several corporations, joint-stock companies or associations, and insurance companies shall be notified of the amount for which they are respectively liable on or before the first day of June of each successive year, and said assessment shall be paid on or before the fifteenth day of June. *Provided*, That every corporation, joint-stock company or association, and insurance company, computing taxes upon the income of the fiscal year which it may designate in the manner hereinbefore provided, shall pay the taxes due under its assessment within one hundred and five days after the date upon which it is required to file its list or return of income for assessment; except in cases of refusal or neglect to make such return, and in cases of erroneous, false, or fraudulent returns, in which cases the Commissioner of Internal Revenue shall, upon the discovery thereof, at any time within three years after said return is due, make a return upon information obtained as provided for in this title or by existing law; and the assessment made by the Commissioner of Internal Revenue thereon shall be paid by such corporation, joint-stock company or association, or insurance company immediately upon notification of the amount of such assessment; and to any sum or sums due and unpaid after the fifteenth day of June in any year, or after one hundred and five days from the date on which the return of income is required to be made by the taxpayer, and after ten days' notice and demand thereof by the collector, there shall be added the sum of five per centum on the amount of tax unpaid and interest at the rate of one per centum per month upon said tax from the time the same becomes due: *Provided*, That upon the examination of any return of income made pursuant to this title, the Act of August fifth, nineteen hundred and nine, entitled "An Act to provide revenue, equalize duties and encourage the industries of the United States, and for other purposes," and the Act of October third, nineteen hundred and thirteen, entitled, "An Act to reduce tariff duties and to provide revenue for the Government, and for other purposes," if it shall appear that amounts of tax have been paid in excess of those properly due, the taxpayer shall be permitted to present a claim for refund thereof notwithstanding the provisions of section thirty-two hundred and twenty-eight of the Revised Statutes.

(b) When the assessment shall be made, as provided in this title, the returns, together with any corrections thereof which may have

been made by the commissioner, shall be filed in the office of the Commissioner of Internal Revenue and shall constitute public records and be open to inspection as such: *Provided*, That any and all such returns shall be open to inspection only upon the order of the President, under rules and regulations to be prescribed by the Secretary of the Treasury and approved by the President: *Provided further*, That the proper officers of any State imposing a general income tax may, upon the request of the governor thereof, have access to said returns or to an abstract thereof, showing the name and income of each such corporation, joint-stock company or association, or insurance company, at such times and in such manner as the Secretary of the Treasury may prescribe;

Regulations governing inspection of returns. (T. D. 2961.)

Furnishing copies of returns. (T. D. 2962.)

(c) If any of the corporations, joint-stock companies or associations, or insurance companies aforesaid shall refuse or neglect to make a return at the time or times hereinbefore specified in each year, or shall render a false or fraudulent return, such corporation, joint-stock company or association, or insurance company shall be liable to a penalty of not exceeding \$10,000: *Provided*, That the Commissioner of Internal Revenue shall have authority, in the case of either corporations or individuals, to grant a reasonable extension of time in meritorious cases, as he may deem proper.

(d) That section thirty-two hundred and twenty-five of the Revised Statutes of the United States be, and the same is hereby, amended so as to read as follows:

"SEC. 3225. When a second assessment is made in case of any list, statement, or return, which in the opinion of the collector or deputy collector was false or fraudulent, or contained any understatement or undervaluation, no tax collected under such assessment shall be recovered by any suit unless it is proved that the said list, statement, or return was not false nor fraudulent and did not contain any understatement or undervaluation; but this section shall not apply to statements or returns made or to be made in good faith under the laws of the United States regarding annual depreciation of oil or gas wells and mines."

Reopening of claims for refund rejected by Commissioner because of statute of limitations in existence at time. (T. D. 2396.)

Burden of proof in suits to recover taxes; application of section 3225, R. S., to statements or returns regarding depreciation of oil or gas wells and mines. (T. D. 2375.)

Five per cent penalty and interest where taxpayer absent in foreign country or traveling abroad, or absent from home or place of business in military or other service of the country. (T. D. 2679.)

PART III.—GENERAL ADMINISTRATIVE PROVISIONS.

"State;" "United States."

SEC. 15. That the word "State" or "United States" when used in this title shall be construed to include any Territory, the District of Columbia, Porto Rico, and the Philippine Islands, when such construction is necessary to carry out its provisions.

Section 3167, Revised Statutes, amended.

SEC. 16. That sections thirty-one hundred and sixty-seven, thirty-one hundred and seventy-two, thirty-one hundred and seventy-three,

and thirty-one hundred and seventy-six of the Revised Statutes of the United States as amended are hereby amended so as to read as follows:

"SEC. 3167. It shall be unlawful for any collector, deputy collector, agent, clerk, or other officer or employee of the United States to divulge or to make known in any manner whatever not provided by law to any person the operations, style of work, or apparatus of any manufacturer or producer visited by him in the discharge of his official duties, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any income return, or to permit any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; and it shall be unlawful for any person to print or publish in any manner whatever not provided by law any income return or any part thereof or source of income, profits, losses, or expenditures appearing in any income return; and any offense against the foregoing provision shall be a misdemeanor and be punished by a fine not exceeding \$1,000 or by imprisonment not exceeding one year, or both, at the discretion of the court; and if the offender be an officer or employee of the United States he shall be dismissed from office or discharged from employment.

Section 3172, Revised Statutes, amended.

"SEC. 3172. Every collector shall, from time to time, cause his deputies to proceed through every part of his district and inquire after and concerning all persons therein who are liable to pay any internal-revenue tax, and all persons owning or having the care and management of any objects liable to pay any tax, and to make a list of such persons and enumerate said objects.

Section 3173, Revised Statutes, amended.

"SEC. 3173. It shall be the duty of any person, partnership, firm, association, or corporation, made liable to any duty, special tax, or other tax imposed by law, when not otherwise provided for, (1) in case of a special tax, on or before the thirty-first day of July in each year, (2) in case of income tax on or before the first day of March in each year, or on or before the last day of the sixty-day period next following the closing date of the fiscal year for which it makes a return of its income, and (3) in other cases before the day on which the taxes accrue, to make a list or return, verified by oath, to the collector or a deputy collector of the district where located, of the articles or objects, including the amount of annual income charged with a duty or tax, the quantity of goods, wares, and merchandise, made or sold and charged with a tax, the several rates and aggregate amount, according to the forms and regulations to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, for which such person, partnership, firm, association, or corporation is liable: *Provided*, That if any person liable to pay any duty or tax, or owning, possessing, or having the care or management of property, goods, wares, and merchandise, article or objects liable to pay any duty, tax, or license, shall fail to make and exhibit a list or return required by law, but shall consent to disclose the particulars of any and all the property, goods, wares,

and merchandise, articles, and objects liable to pay any duty or tax, or any business or occupation liable to pay any tax as aforesaid, then, and in that case, it shall be the duty of the collector or deputy collector to make such list or return, which, being distinctly read, consented to, and signed and verified by oath by the person so owning, possessing, or having the care and management as aforesaid, may be received as the list of such person: *Provided further*, That in case no annual list or return has been rendered by such person to the collector or deputy collector as required by law, and the person shall be absent from his or her residence or place of business at the time the collector or a deputy collector shall call for the annual list or return, it shall be the duty of such collector or deputy collector to leave at such place of residence or business, with some one of suitable age and discretion, if such be present, otherwise to deposit in the nearest post office, a note or memorandum addressed to such person, requiring him or her to render to such collector or deputy collector the list or return required by law within ten days from the date of such note or memorandum, verified by oath. And if any person, on being notified or required as aforesaid, shall refuse or neglect to render such list or return within the time required as aforesaid, or whenever any person who is required to deliver a monthly or other return of objects subject to tax fails to do so at the time required, or delivers any return which, in the opinion of the collector, is erroneous, false, or fraudulent, or contains any undervaluation or understatement, or refuses to allow any regularly authorized Government officer to examine the books of such person, firm, or corporation, it shall be lawful for the collector to summon such person, or any other person having possession, custody, or care of books of account containing entries relating to the business of such person, or any other person he may deem proper, to appear before him and produce such books at a time and place named in the summons, and to give testimony or answer interrogatories, under oath, respecting any objects or income liable to tax or the returns thereof. The collector may summon any person residing or found within the State or Territory in which his district lies; and when the person intended to be summoned does not reside and can not be found within such State or Territory, he may enter any collection district where such person may be found and there make the examination herein authorized. And to this end he may there exercise all the authority which he might lawfully exercise in the district for which he was commissioned: *Provided*, That 'person,' as used in this section, shall be construed to include any corporation, joint-stock company or association, or insurance company when such construction is necessary to carry out its provisions.

Section 3176, Revised Statutes, amended.

"SEC. 3176. If any person, corporation, company, or association fails to make and file a return or list at the time prescribed by law, or makes, willfully or otherwise, a false or fraudulent return or list, the collector or deputy collector shall make the return or list from his own knowledge and from such information as he can obtain through testimony or otherwise. Any return or list so made and subscribed

by a collector or deputy collector shall be prima facie good and sufficient for all legal purposes.

"If the failure to file a return or list is due to sickness or absence the collector may allow such further time, not exceeding thirty days, for making and filing the return or list as he deems proper.

"The Commissioner of Internal Revenue shall assess all taxes, other than stamp taxes, as to which returns or lists are so made by a collector or deputy collector. In case of any failure to make and file a return or list within the time prescribed by law or by the collector, the Commissioner of Internal Revenue shall add to the tax fifty per centum of its amount except that, when a return is voluntarily and without notice from the collector filed after such time and it is shown that the failure to file it was due to a reasonable cause and not to willful neglect, no such addition shall be made to the tax. In case a false or fraudulent return or list is willfully made, the Commissioner of Internal Revenue shall add to the tax one hundred per centum of its amount.

"The amount so added to any tax shall be collected at the same time and in the same manner and as part of the tax unless the tax has been paid before the discovery of the neglect, falsity, or fraud, in which case the amount so added shall be collected in the same manner as the tax."

Receipts.

SEC. 17. That it shall be the duty of every collector of internal revenue, to whom any payment of any taxes is made under the provisions of this title, to give to the person making such payment a full written or printed receipt, expressing the amount paid and the particular account for which such payment was made; and whenever such payment is made such collector shall, if required, give a separate receipt for each tax paid by any debtor, on account of payments made to or to be made by him to separate creditors in such form that such debtor can conveniently produce the same separately to his several creditors in satisfaction of their respective demands to the amounts specified in such receipts; and such receipts shall be sufficient evidence in favor of such debtor to justify him in withholding the amount therein expressed from his next payment to his creditor; but such creditor may, upon giving to his debtor a full written receipt, acknowledging the payment to him of whatever sum may be actually paid, and accepting the amount of tax paid as aforesaid (specifying the same) as a further satisfaction of the debt to that amount, require the surrender to him of such collector's receipt.

Penalties.

SEC. 18. That if any individual liable to make the return or pay the tax aforesaid shall refuse or neglect to make such return at the time or times hereinbefore specified in each year, he shall be liable to a penalty of not less than \$20 nor more than \$1,000. Any individual or any officer of any corporation, joint-stock company or association, or insurance company required by law to make, render, sign, or verify any return who makes any false or fraudulent return or statement with intent to defeat or evade the assessment required by this title to be made shall be guilty of a misdemeanor, and shall be fined not exceeding \$2,000 or be imprisoned not exceeding one year, or

both, in the discretion of the court, with the costs of prosecution: *Provided*, That where any tax heretofore due and payable has been duly paid by the taxpayer, it shall not be re-collected from any person or corporation required to retain it at its source, nor shall any penalty be imposed or collected in such cases from the taxpayer, or such person or corporation whose duty it was to retain it, for failure to return or pay the same, unless such failure was fraudulent and for the purpose of evading payment.

Amended by section 1209, act of October 3, 1917; p. 898.

Verification of returns.

SEC. 19. The collector or deputy collector shall require every return to be verified by the oath of the party rendering it. If the collector or deputy collector have reason to believe that the amount of any income returned is understated, he shall give due notice to the person making the return to show cause why the amount of the return should not be increased, and upon proof of the amount understated may increase the same accordingly. Such person may furnish sworn testimony to prove any relevant facts, and, if dissatisfied with the decision of the collector, may appeal to the Commissioner of Internal Revenue for his decision under such rules of procedure as may be prescribed by regulation.

Compelling attendance of witnesses, etc.

SEC. 20. That jurisdiction is hereby conferred upon the district courts of the United States for the district within which any person summoned under this title to appear to testify or to produce books shall reside, to compel such attendance, production of books, and testimony, by appropriate process.

Statistics.

SEC. 21. That the preparation and publication of statistics reasonably available with respect to the operation of the income tax law and containing classifications of taxpayers and of income, the amounts allowed as deductions and exemptions, and any other facts deemed pertinent and valuable, shall be made annually by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury.

Application of earlier laws, etc.

SEC. 22. That all administrative, special, and general provisions of law, including the laws in relation to the assessment, remission, collection, and refund of internal-revenue taxes not heretofore specifically repealed and not inconsistent with the provisions of this title, are hereby extended and made applicable to all the provisions of this title and to the tax herein imposed.

Porto Rico and Philippine Islands.

SEC. 23. That the provisions of this title shall extend to Porto Rico and the Philippine Islands: *Provided*, That the administration of the law and the collection of the taxes imposed in Porto Rico and the Phil-

ippine Islands shall be by the appropriate internal-revenue officers of those governments, and all revenues collected in Porto Rico and the Philippine Islands thereunder shall accrue intact to the general Governments thereof, respectively: *Provided further*, That the jurisdiction in this title conferred upon the district courts of the United States shall, so far as the Philippine Islands are concerned, be vested in the courts of the first instance of said islands: *And provided further*, That nothing in this title shall be held to exclude from the computation of the net income the compensation paid any official by the governments of the District of Columbia, Porto Rico, and the Philippine Islands, or the political subdivisions thereof.

Repeal of Section II, act October 3, 1913.

SEC. 24. That Section II of the Act approved October third, nineteen hundred and thirteen, entitled "An Act to reduce tariff duties and to provide revenue for the Government, and for other purposes," is hereby repealed, except as herein otherwise provided, and except that it shall remain in force for the assessment and collection of all taxes which have accrued thereunder, and for the imposition and collection of all penalties or forfeitures which have accrued or may accrue in relation to any of such taxes, and except that the unexpended balance of any appropriation heretofore made and now available for the administration of such section or any provision thereof shall be available for the administration of this title or the corresponding provision thereof.

Income under act of October 3, 1913.

SEC. 25. That income on which has been assessed the tax imposed by Section II of the Act entitled "An Act to reduce tariff duties and to provide revenue for the Government, and for other purposes," approved October third, nineteen hundred and thirteen, shall not be considered as income within the meaning of this title: *Provided*, That this section shall not conflict with that portion of section ten, of this title, under which a taxpayer has fixed its own fiscal year.

New section.

New section, 26, added by section 402 of the Act of March 3, 1917 (39 Stat., 1000, 1003), such section being amended by section 1210 of the Act of October 3, 1917 (40 Stat., 300, 336); pages 848 and 899, post. New sections, 27 to 32, were added by section 1211, Act of October 3, 1917; page 899.

TITLE II.—ESTATE TAX.¹

Definitions.

SEC. 200. That when used in this title—

The term "person" includes partnerships, corporations, and associations;

The term "United States" means only the States, the Territories of Alaska and Hawaii, and the District of Columbia;

The term "executor" means the executor or administrator of the decedent, or, if there is no executor or administrator, any person who takes possession of any property of the decedent; and

¹ See Regulations No. 37.

The term "collector" means the collector of internal revenue of the district in which was the domicile of the decedent at the time of his death, or, if there was no such domicile in the United States, then the collector of the district in which is situated the part of the gross estate of the decedent in the United States, or, if such part of the gross estate is situated in more than one district, then the collector of internal revenue at Baltimore, Maryland.

Wherever circumstances are such that the Government could not proceed against administrator or executor for satisfaction of requirements of taxing act there shall be no failure, because of inability to hold others in possession responsible, to collect whole tax due. (T. D. 2454.)

Imposition of tax; rates.

SEC. 201. That a tax (hereinafter in this title referred to as the tax), equal to the following percentages of the value of the net estate, to be determined as provided in section two hundred and three, is hereby imposed upon the transfer of the net estate of every decedent dying after the passage of this Act, whether a resident or non-resident of the United States:

One per centum of the amount of such net estate not in excess of \$50,000;

Two per centum of the amount by which such net estate exceeds \$50,000 and does not exceed \$150,000;

Three per centum of the amount by which such net estate exceeds \$150,000 and does not exceed \$250,000;

Four per centum of the amount by which such net estate exceeds \$250,000 and does not exceed \$450,000;

Five per centum of the amount by which such net estate exceeds \$450,000 and does not exceed \$1,000,000;

Six per centum of the amount by which such net estate exceeds \$1,000,000 and does not exceed \$2,000,000;

Seven per centum of the amount by which such net estate exceeds \$2,000,000 and does not exceed \$3,000,000;

Eight per centum of the amount by which such net estate exceeds \$3,000,000 and does not exceed \$4,000,000;

Nine per centum of the amount by which such net estate exceeds \$4,000,000 and does not exceed \$5,000,000; and

Ten per centum of the amount by which such net estate exceeds \$5,000,000.

Amended by section 300, act of March 3, 1917; p. 847.

In view of the history of the legislation, collateral inheritance taxes imposed by the State of Pennsylvania under collateral inheritance tax act, sections 1, 3, 5, 9, and 11, are to be treated as paid by the estate, and may be deducted as expenses of administration, or claims against the estate, or other charges against the estate allowed by the laws of the State, within this act. (*Northern Trust Co. v. Lederer*, 257 Fed., 812.)

Determination of value of gross estate.

SEC. 202. That the value of the gross estate of the decedent shall be determined by including the value at the time of his death of all property, real or personal, tangible or intangible, wherever situated:

(a) To the extent of the interest therein of the decedent at the time of his death which after his death is subject to the payment of the charges against his estate and the expenses of its administration and is subject to distribution as part of his estate.

(b) To the extent of any interest therein of which the decedent has at any time made a transfer, or with respect to which he has created a trust, in contemplation of or intended to take effect in possession or enjoyment at or after his death, except in case of a bona fide sale for a fair consideration in money or money's worth. Any transfer of a material part of his property in the nature of a final disposition or distribution thereof, made by the decedent within two years prior to his death without such a consideration, shall, unless shown to the contrary, be deemed to have been made in contemplation of death within the meaning of this title; and

(c) To the extent of the interest therein held jointly or as tenants in the entirety by the decedent and any other person, or deposited in banks or other institutions in their joint names and payable to either or the survivor, except such part thereof as may be shown to have originally belonged to such other person and never to have belonged to the decedent.

For the purpose of this title stock in a domestic corporation owned and held by a nonresident decedent shall be deemed property within the United States, and any property of which the decedent has made a transfer or with respect to which he has created a trust, within the meaning of subdivision (b) of this section, shall be deemed to be situated in the United States, if so situated either at the time of the transfer or the creation of the trust, or at the time of the decedent's death.

Income earned after decedent's death and appreciation in values during administration are not to be returned as portion of gross estate. (T. D. 2406.)

Property passing under general power of appointment is taxable as a portion of the gross estate of the decedent appointee. (T. D. 2477.)

Computation of dividends upon stock and interest upon bonds owned by decedent whose estate is taxable. (T. D. 2483.)

Real estate located outside of the United States belonging to a decedent resident within the United States should not be included in the gross estate of such decedent. (T. D. 2735.)

Transfers of property made prior to September 8, 1916, in contemplation of death, are taxable where the transferer died after September 8, 1916. (T. D. 2385.)

Value of United States bonds can not be excluded from gross or net estate in determining tax due. (T. D. 2449.)

Shares of stock in domestic corporations belonging to nonresident decedent and deposited with British treasury, for which certificates of deposit were issued, are subject to tax on death of nonresident if certificates have not been previously transferred. (T. D. 2772.)

Methods of determining share in community property or property owned jointly or in entirety; to be returned as a portion of the gross estate of a decedent tenant. (T. D. 2450.)

Household effects and like personalty used by husband and wife in the marriage relation are presumed to be the property of the husband, and, in the absence of sufficient evidence to rebut this presumption, must be returned as a portion of his gross estate. (T. D. 2529.)

Bonds of domestic corporations owned by nonresident decedents, such bonds being physically situate outside of the United States, are not returnable as a portion of the gross estate of said decedent. (T. D. 2530.)

Determination of value of net estate.

SEC. 203. That for the purpose of the tax the value of the net estate shall be determined—

(a) In the case of a resident, by deducting from the value of the gross estate—

(1) Such amounts for funeral expenses, administration expenses, claims against the estate, unpaid mortgages, losses incurred during the settlement of the estate arising from fires, storms, shipwreck, or other casualty, and from theft, when such losses are not compensated for by insurance or otherwise, support during the settlement of the estate of those dependent upon the decedent, and such other charges against the estate, as are allowed by the laws of the jurisdiction, whether within or without the United States, under which the estate is being administered; and

(2) An exemption of \$50,000;

(b) In the case of a nonresident, by deducting from the value of that part of his gross estate which at the time of his death is situated in the United States that proportion of the deductions specified in paragraph (1) of subdivision (a) of this section which the value of such part bears to the value of his entire gross estate, wherever situated. But no deductions shall be allowed in the case of a nonresident unless the executor includes in the return required to be filed under section two hundred and five the value at the time of his death of that part of the gross estate of the nonresident not situated in the United States.

The deductions from the gross estate provided in section 203, paragraph 1, are limited to amounts allowed under the laws of the local jurisdiction. (T. D. 2453.)

State inheritance taxes are deductible. (T. D. 2524.) But see T. D. 2976.

Interpretation of the provision relating to the deductibility of amounts expended for support of dependents. (T. D. 2531.)

Table to be used in determining the value of one's life interest in an estate vested in another. (T. D. 2626.)

Conditions under which taxes on real and personal property and on income are deductible in computing net estate stated. (T. D. 2771.)

In view of the history of the legislation, collateral inheritance taxes imposed by the State of Pennsylvania under collateral-inheritance tax act, sections 1, 3, 5, 9, and 11, are to be treated as paid by the estate and may be deducted as expenses of administration, or claims against the estate, or other charges against the estate allowed by the laws of the State within this act. (Northern Trust Co. v. Lederer, 257 Fed., 312.)

Time of payment of tax.

SEC. 204. That the tax shall be due one year after the decedent's death. If the tax is paid before it is due a discount at the rate of five per centum per annum, calculated from the time payment is made to the date when the tax is due, shall be deducted. If the tax is not paid within ninety days after it is due interest at the rate of ten per centum per annum from the time of the decedent's death shall be added as part of the tax, unless because of claims against the estate, necessary litigation, or other unavoidable delay the collector finds that the tax can not be determined, in which case the interest shall be at the rate of six per centum per annum from the time of the decedent's death until the cause of such delay is removed, and thereafter at the rate of ten per centum per annum. Litigation to defeat the payment of the tax shall not be deemed necessary litigation.

Instructions, with tables, relating to the computation of the 5 per cent discount to be allowed on estate tax when paid before one year after the death of decedent. (T. D. 2497.)

Conditions under which discount may be allowed for advance payment of tax stated; extension not to exceed ninety days may be granted by collector in which to file final return. (T. D. 2756).

Executor's duties; returns.

SEC. 205. That the executor, within thirty days after qualifying as such, or after coming into possession of any property of the decedent, whichever event first occurs, shall give written notice thereof to the collector. The executor, shall also, at such times and in such manner as may be required by the regulations made under this title, file with the collector a return under oath in duplicate, setting forth (a) the value of the gross estate of the decedent at the time of his death, or, in case of a nonresident, of that part of his gross estate situated in the United States; (b) the deductions allowed under section two hundred and three; (c) the value of the net estate of the decedent as defined in section two hundred and three; and (d) the tax paid or payable thereon; or such part of such information as may at the time be ascertainable and such supplemental data as may be necessary to establish the correct tax.

Return shall be made in all cases of estates subject to the tax or where the gross estate at the death of the decedent exceeds \$60,000, and in the case of the estate of every nonresident any part of whose gross estate is situated in the United States. If the executor is unable to make a complete return as to any part of the gross estate of the decedent, he shall include in his return a description of such part and the name of every person holding a legal or beneficial interest therein, and upon notice from the collector such person shall in like manner make a return as to such part of the gross estate. The Commissioner of Internal Revenue shall make all assessments of the tax under the authority of existing administrative special and general provisions of law relating to the assessment and collection of taxes.

Estates of nonresidents; payment of tax and transfer of securities. (T. D. 2708.)

Duties of corporations and their transfer agents, registers of bonds, and paying agents. (T. D. 2490.)

Beneficiaries taking property of decedent prior to appointment of executor or administrator, where the estate would be subject to taxation, required to file 30-day notice and return. (T. D. 2372.)

Conditions under which tentative returns may be filed and advance tax payment accepted. (T. D. 2415.)

Thirty-day notice, return, and tax payment required of representatives in this country of nonresidents where no executor acts within the required time; also a similar requirement in the case of fiduciaries holding property of a resident where no executor acts. (T. D. 2421.)

The value of United States bonds can not be excluded from the gross or net estate in determining estate tax due. (T. D. 2449.)

Duties of heirs, donees, trustees, fiduciaries, transfer agents, and others having or coming into possession of property of a decedent whose estate is liable for estate tax. (T. D. 2454.)

Condition under which time for filing estate tax returns may be extended beyond 90 days from the day a year after the death of the decedent. (T. D. 2637.)

Instructions for preparation of Form 706. (T. D. 2513.)

Returns on Form 706 for the estates of nonresident decedents to be forwarded direct to the Commissioner of Internal Revenue for transmittal to the collector. (T. D. 2691.)

Return by collector.

SEC. 206. That if no administration is granted upon the estate of a decedent, or if no return is filed as provided in section two hundred and five, or if a return contains a false or incorrect statement of a

material fact, the collector or deputy collector shall make a return and the Commissioner of Internal Revenue shall assess the tax thereon.

To whom payment made; amount to be paid; interest; duplicate receipts.

SEC. 207. That the executor shall pay the tax to the collector or deputy collector. If for any reason the amount of the tax can not be determined, the payment of a sum of money sufficient, in the opinion of the collector, to discharge the tax shall be deemed payment in full of the tax, except as in this section otherwise provided. If the amount so paid exceeds the amount of the tax as finally determined, the Commissioner of Internal Revenue shall refund such excess to the executor. If the amount of the tax as finally determined exceeds the amount so paid the commissioner shall notify the executor of the amount of such excess. From the time of such notification to the time of the final payment of such excess part of the tax, interest shall be added thereto at the rate of ten per centum per annum, and the amount of such excess shall be a lien upon the entire gross estate, except such part thereof as may have been sold to a bona fide purchaser for a fair consideration in money or money's worth.

The collector shall grant to the person paying the tax duplicate receipts, either of which shall be sufficient evidence of such payment, and shall entitle the executor to be credited and allowed the amount thereof by any court having jurisdiction to audit or settle his accounts.

United States bonds bearing interest at a higher rate than 4 per cent to be accepted at par and accrued interest in payment of estate tax. (T. D. 2705.)

Collector not required to exercise discretion as to what amount will satisfy tax until due date thereof; regulation governing payments where amount of tax can not be determined. (T. D. 2756.)

Time of notification to executor of amount of "excess" estate tax due is date on which notice thereof is received by executor. (T. D. 2770.)

Subjection of property.

SEC. 208. That if the tax herein imposed is not paid within sixty days after it is due, the collector shall, unless there is reasonable cause for further delay, commence appropriate proceedings in any court of the United States, in the name of the United States, to subject the property of the decedent to be sold under the judgment or decree of the court. From the proceeds of such sale the amount of the tax, together with the costs and expenses of every description to be allowed by the court, shall be first paid, and the balance shall be deposited according to the order of the court, to be paid under its direction to the person entitled thereto. If the tax or any part thereof is paid by, or collected out of that part of the estate passing to or in the possession of, any person other than the executor in his capacity as such, such person shall be entitled to reimbursement out of any part of the estate still undistributed or by a just and equitable contribution by the persons whose interest in the estate of the decedent would have been reduced if the tax had been paid before the distribution of the estate or whose interest is subject to equal or prior liability for the payment of taxes, debts, or other charges against the estate, it being the purpose and intent of this title that so far as is

practicable and unless otherwise directed by the will of the decedent the tax shall be paid out of the estate before its distribution.

Lien of tax; liability of transferee or trustee.

SEC. 209. That unless the tax is sooner paid in full, it shall be a lien for ten years upon the gross estate of the decedent, except that such part of the gross estate as is used for the payment of charges against the estate and expenses of its administration, allowed by any court having jurisdiction thereof, shall be divested of such lien.

If the decedent makes a transfer of, or creates a trust with respect to, any property in contemplation of or intended to take effect in possession or enjoyment at or after his death (except in the case of a bona fide sale for a fair consideration in money or money's worth) and if the tax in respect thereto is not paid when due, the transferee or trustee shall be personally liable for such tax, and such property, to the extent of the decedent's interest therein at the time of such transfer, shall be subject to a like lien equal to the amount of such tax. Any part of such property sold by such transferee or trustee to a bona fide purchaser for a fair consideration in money or money's worth shall be divested of the lien and a like lien shall then attach to all the property of such transferee or trustee, except any part sold to a bona fide purchaser for a fair consideration in money or money's worth.

Penalties.

SEC. 210. That whoever knowingly makes any false statement in any notice or return required to be filed by this title shall be liable to a penalty of not exceeding \$5,000, or imprisonment not exceeding one year, or both, in the discretion of the court.

Whoever fails to comply with any duty imposed upon him by section two hundred and five, or, having in his possession or control any record, file, or paper, containing or supposed to contain any information concerning the estate of the decedent, fails to exhibit the same upon request to the Commissioner of Internal Revenue or any collector or law officer of the United States, or his duly authorized deputy or agent, who desires to examine the same in the performance of his duties under this title, shall be liable to a penalty of not exceeding \$500, to be recovered, with costs of suit, in a civil action in the name of the United States.

Application of earlier laws.

SEC. 211. That all administrative, special, and general provisions of law, including the laws in relation to the assessment and collection of taxes, not heretofore specifically repealed are hereby made to apply to this title so far as applicable and not inconsistent with its provisions.

Regulations.

SEC. 212. That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall make such regulations, and prescribe and require the use of such books and forms as he may deem necessary to carry out the provisions of this title.

Supplemental regulations. (T. D. 2454.)

Acceptance of Liberty bonds in payment of tax.

SEC. 6 [*Act of April 4, 1918 (40 Stat., 502, 505), amending act of September 24, 1917 (40 Stat. 288).*] That any bonds of the United States bearing interest at a higher rate than four per centum per annum (whether issued under section one of this Act or upon conversion of bonds issued under this Act or under said Act approved April twenty-fourth, nineteen hundred and seventeen), which have been owned by any person continuously for at least six months prior to the date of his death, and which upon such date constitute part of his estate, shall, under rules and regulations prescribed by the Secretary of the Treasury, be receivable by the United States at par and accrued interest in payment of any estate or inheritance taxes imposed by the United States, under or by virtue of any present or future law upon such estate or the inheritance thereof.

United States bonds bearing interest at a higher rate than 4 per cent to be accepted at par and accrued interest in payment of estate tax. (T. D. 2705.)

Receipt of 4½ per cent Victory notes in payment of tax. (T. Ds. 2804, 2805.)

Receipt of Liberty bonds in payment of estate taxes. (T. Ds. 2898, 2878, 2802.)

TITLE III.—MUNITION MANUFACTURER'S TAX.¹

Definitions.

SEC. 300. That when used in this title—

The term "person" includes partnerships, corporations, and associations;

The term "taxable year" means the twelve months ending December thirty-first. The first taxable year shall be the twelve months ending December thirty-first, nineteen hundred and sixteen; and

The term "United States" means only the States, the Territories of Alaska and Hawaii, and the District of Columbia.

Imposition of tax; rate; limitation.

SEC. 301. (1) That every person manufacturing (a) gunpowder and other explosives, excepting blasting powder and dynamite used for industrial purposes; (b) cartridges, loaded and unloaded, caps or primers, exclusive of those used for industrial purposes; (c) projectiles, shells, or torpedoes of any kind, including shrapnel, loaded or unloaded, or fuses, or complete rounds of ammunition; (d) firearms of any kind and appendages, including small arms, cannon, machine guns, rifles, and bayonets; (e) electric motor boats, submarine or submersible vessels or boats; or (f) any part of any of the articles mentioned in (b), (c), (d), or (e); shall pay for each taxable year, in addition to the income tax imposed by Title I, an excise tax of twelve and one-half per centum upon the entire net profits actually received or accrued for said year from the sale or disposition of such articles manufactured within the United States: *Provided, however,* That no person shall pay such tax upon net profits received during the year nineteen hundred and sixteen derived from

¹ See Regulations No. 30 (T. D. 2384).

the sale and delivery of the articles enumerated in this section under contracts executed and fully performed by such person prior to January first, nineteen hundred and sixteen.

(2) This section shall cease to be of effect at the end of one year after the termination of the present European war, which shall be evidenced by the proclamation of the President of the United States declaring such war to have ended.

Amended by section 214, act of October 3, 1917. See post, page 861.

Purpose of section; "any part" defined; manufacture of shells by contractors and subcontractors. (T. D. 2875.)

"Appendages," as used in paragraph (d), includes those adjuncts or accessories which may be attached to and become in effect parts of fire-arms. (T. D. 2714.)

Net profits received in 1916 or subsequent years or contracts entered into and not fully performed prior to January 1, 1916, required to be returned as income of year in which received. (T. D. 2458.)

Congress did not intend, by this section, to tax the manufacturer of articles or parts thereof, which, while susceptible of warlike use, were, in fact, not so used, but remained in the channels of normal commerce and use. (*Carbon Steel Co. v. Lewellyn*, *Worth Bros. Co. v. Lederer*, and *Lewellyn v. Forged Steel Wheel Co.*, 258 Fed., 533; T. D. 2875.)

The words "any part" do not mean "any completed part." (Id.)

Steel company which manufactured steel of characteristics necessary to manufacture of shells, and retained ownership through all subsequent steps by subcontractors, delivering completed shells to foreign government, held to be a person manufacturing shells, within meaning of this section. (Id.)

Subcontractor which selected material required in shells, made steel which constituted the shells, performing six several steps constituting about 40 per cent of the cost of shells, held to be person manufacturing shells, within meaning of this section. (Id.)

Subcontractor, manufacturing and furnishing to contractor for shells rough steel shell forgings, making or buying in the market the steel required, of common commercial type known as rounds, which rounds it broke into lengths and put through forging process, the output being a hollow-steel body or shell weighing about 170 pounds, held to be person manufacturing shells, within meaning of this section, though contractor, to make shell form suitable for use, was required to dress and machine it down to 77 pounds by means of some twenty-seven distinct processes. (Id.)

Computation of net profits.

Sec. 302. That in computing net profits under the provisions of this title, for the purpose of the tax there shall be allowed as deductions from the gross amount received or accrued for the taxable year from the sale or disposition of such articles manufactured within the United States, the following items:

- (a) The cost of raw materials entering into the manufacture;
- (b) Running expenses, including rentals, cost of repairs and maintenance, heat, power, insurance, management, salaries, and wages;
- (c) Interest paid within the taxable year on debts or loans contracted to meet the needs of the business, and the proceeds of which have been actually used to meet such needs;
- (d) Taxes of all kinds paid during the taxable year with respect to the business or property relating to the manufacture;
- (e) Losses actually sustained within the taxable year in connection with the business of manufacturing such articles, including losses from fire, flood, storm, or other casualty, and not compensated for by insurance or otherwise; and

(f) A reasonable allowance according to the conditions peculiar to each concern, for amortization of the values of buildings and machinery, account being taken of the exceptional depreciation of special plants.

War excess profits tax not deductible in ascertaining net munitions income for purpose of measuring tax. (T. D. 2621.)

Gross amount deemed to be what.

SEC. 303. If any person manufactures any article specified in section three hundred and one and, during any taxable year or part thereof, whether under any agreement, arrangement, or understanding, or otherwise, sells or disposes of any such article at less than the fair market price obtainable therefor, either (a) in such manner as directly or indirectly to benefit such person or any person directly or indirectly interested in the business of such person, or (b) with intent to cause such benefit, the gross amount received or accrued for such year or part thereof from the sale or disposition of such article shall be taken to be the amount which would have been received or accrued from the sale or disposition of such article if sold at the fair market price.

Returns.

SEC. 304. On or before the first day of March, nineteen hundred and seventeen, and the first day of March in each year thereafter, a true and accurate return under oath shall be made by each person manufacturing articles specified in section three hundred and one to the collector of internal revenue for the district in which such person has his principal office or place of business, in such form as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe, setting forth specifically the gross amount of income received or accrued from the sale or disposition of the articles specified in section three hundred and one, and from the total thereof deducting the aggregate items of allowance authorized in section three hundred and two, and such other particulars as to the gross receipts and items of allowance as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may require.

Transmission of returns.

SEC. 305. All such returns shall be transmitted forthwith by the collector to the Commissioner of Internal Revenue, who shall, as soon as practicable, assess the tax found due and notify the person making such return of the amount of tax for which such person is liable, and such person shall pay the tax to the collector on or before thirty days from the date of such notice.

Review by Commissioner.

SEC. 306. If the Secretary of the Treasury or the Commissioner of Internal Revenue shall have reason to be dissatisfied with the return as made, or if no return is made, the Commissioner is authorized to make an investigation and to determine the amount of net profits and may assess the proper tax accordingly. He shall notify the

person making, or who should have made, such return and shall proceed to collect the tax in the same manner as provided in this title, unless the person so notified shall file a written request for a hearing with the Commissioner within thirty days after the date of such notice; and on such hearing the burden of establishing to the satisfaction of the Commissioner that the gross amount received or accrued or the amount of net profits, as determined by the Commissioner, is incorrect, shall devolve upon such person.

Persons on whom tax assessed.

SEC. 307. The tax may be assessed on any person for the time being owning or carrying on the business, or on any person acting as agent for that person in carrying on the business, or where a business has ceased, on the person who owned or carried on the business, or acted as agent in carrying on the business immediately before the time at which the business ceased.

Examination of books, etc.

SEC. 308. For the purpose of carrying out the provisions of this title the Commissioner of Internal Revenue is authorized, personally or by his agent, to examine the books, accounts, and records of any person subject to this tax.

Information not to be communicated.

SEC. 309. No person employed by the United States shall communicate, or allow to be communicated to any person not legally entitled thereto, any information obtained under the provisions of this title, or allow any such person to inspect or have access to any return furnished under the provisions of this title.

Penalties.

SEC. 310. Whoever violates any of the provisions of this title or the regulations made thereunder, or who knowingly makes false statements, in any return, or refuses to give such information as may be called for, is guilty of a misdemeanor, and upon conviction shall, in addition to paying any tax to which he is liable, be fined not more than \$10,000, or imprisoned not exceeding one year, or both, in the discretion of the court.

Application of carrier laws.

SEC. 311. All administrative, special, and general provisions of law, relating to the assessment, and collection of taxes not specifically repealed, are hereby made to apply to this title so far as applicable and not inconsistent with its provisions.

Regulations.

SEC. 312. The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall make all necessary regulations for carrying out the provisions of this title, and may require any person subject to such provisions to furnish him with further information whenever in his judgment the same is necessary to collect the tax provided for herein.

TITLE IV.—MISCELLANEOUS TAXES.

Fermented liquors.

SEC. 400. That there shall be levied, collected, and paid a tax of \$1.50 on all beer, lager beer, ale, porter, and other similar fermented liquor, brewed or manufactured and sold, or stored in warehouse, or removed for consumption or sale, within the United States, by whatever name such liquors may be called, for every barrel containing not more than thirty-one gallons; and at a like rate for any other quantity or for the fractional parts of a barrel authorized and defined by law. And section thirty-three hundred and thirty-nine of the Revised Statutes is hereby amended accordingly.

Natural wines.

SEC. 401. That natural wine within the meaning of this Act shall be deemed to be the product made from the normal alcoholic fermentation of the juice of sound, ripe grapes, without addition or abstraction, except such as may occur in the usual cellar treatment of clarifying and aging: *Provided, however,* That the product made from the juice of sound, ripe grapes by complete fermentation of the must under proper cellar treatment and corrected by the addition (under the supervision of a gauger or storekeeper-gauger in the capacity of gauger) of a solution of water and pure cane, beet, or dextrose sugar (containing, respectively, not less than ninety-five per centum of actual sugar, calculated on a dry basis) to the must or to the wine, to correct natural deficiencies, when such addition shall not increase the volume of the resultant product more than thirty-five per centum, and the resultant product does not contain less than five parts per thousand of acid before fermentation and not more than thirteen per centum of alcohol after complete fermentation, shall be deemed to be wine within the meaning of this Act, and may be labeled, transported, and sold as "wine," qualified by the name of the locality where produced, and may be further qualified by the name of its own particular type or variety: *And provided further,* That wine as defined in this section may be sweetened with cane sugar or beet sugar or pure condensed grape must and fortified under the provisions of this Act, and wines so sweetened or fortified shall be considered sweet wine within the meaning of this Act.

Still wines.

SEC. 402. (a) That upon all still wines, including vermouth, and upon all artificial or imitation wines or compound sold as wine hereafter produced in or imported into the United States, and upon all like wines which on the date this section takes effect shall be in the possession or under the control of the producer, holder, dealer, or compounder there shall be levied, collected, and paid taxes at rates as follows:

On wines containing not more than fourteen per centum of absolute alcohol, 4 cents per wine gallon, the per centum of alcohol taxable under this section to be reckoned by volume and not by weight.

On wines containing more than fourteen per centum and not exceeding twenty-one per centum of absolute alcohol, 10 cents per wine gallon.

On wines containing more than twenty-one per centum and not exceeding twenty-four per centum of absolute alcohol, 25 cents per wine gallon.

All such wines containing more than twenty-four per centum of absolute alcohol by volume shall be classed as distilled spirits and shall pay tax accordingly: *Provided*, That on all unsold still wines in the actual possession of the producer at the time this title takes effect, upon which the tax imposed by the Act approved October twenty-second, nineteen hundred and fourteen, entitled "An Act to increase the internal revenue and for other purposes," and the joint resolution approved December seventeenth, nineteen hundred and fifteen, entitled "Joint resolution extending the provisions of the Act entitled 'An Act to increase the internal revenue, and for other purposes,' approved October twenty-second, nineteen hundred and fourteen, to December thirty-first, nineteen hundred and sixteen," has been assessed, the tax so assessed shall be abated, or, if paid, refunded under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe.

Provision for abatement or refund of tax assessed under act of October 22, 1914, on domestic wines held to apply to tax on brandy used in fortifying such wines. (T. D. 2440.)

Payment of taxes by stamp; notice; bond; inventories; labels, etc.

(b) That the taxes imposed by this section shall be paid by stamp on removal of the wines from the customhouse, winery, or other bonded place of storage for consumption or sale, and every person hereafter producing, or having in his possession or under his control when this section takes effect, any wines subject to the tax imposed in this section shall file such notice, describing the premises on which such wines are produced or stored; shall execute a bond in such form; shall make such inventories under oath; and shall, prior to sale or removal for consumption, affix to each cask or vessel containing such wine such marks, labels, or stamps as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may from time to time prescribe; and the premises described in such notice shall, for the purpose of this section, be regarded as bonded premises. But the provisions of this subdivision of this section, except as to payment of tax and the affixing of the required stamps or labels, shall not apply to wines held by retail dealers, as defined in section thirty-two hundred and forty-four of the Revised Statutes of the United States, nor, subject to regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall the tax imposed by this section apply to wines produced for the family use of the producer thereof and not sold or otherwise removed from the place of manufacture and not exceeding in any case two hundred gallons per year. The Commissioner of Internal Revenue is hereby authorized to have prepared and issue such stamps denoting payment of the tax imposed by this section as he may deem requisite and necessary; and until such stamps are provided the taxes imposed by this section shall be assessed and collected as other taxes are assessed and collected, and all provisions of

law relating to assessment and collection of taxes, so far as applicable, are hereby extended to the taxes imposed by this section.

Regulations relative to production of wine in quantities not exceeding 1,000 gallons per year. (T. D. 2765.)

Withdrawal of grape brandy or wine spirits.

(c) That under such regulations and official supervision and upon the giving of such notices, entries, bonds, and other security as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe, any producer of wines defined under the provisions of this section or section four hundred and one of this Act, may withdraw from any fruit distillery or special bonded warehouse grape brandy, or wine spirits, for the fortification of such wines on the premises where actually made: *Provided*, That there shall be levied and assessed against the producer of such wines a tax of 10 cents per proof gallon of grape brandy or wine spirits so used by him in the fortification of such wines during the preceding month, which assessment shall be paid by him within six months from the date of notice thereof: *Provided further*, That nothing herein contained shall be construed as exempting any wines, cordials, liqueurs, or similar compounds from the payment of any tax provided for in this section.

That sections forty-two, forty-three, and forty-five of the Act of October first, eighteen hundred and ninety, as amended by section sixty-eight of the Act of August twenty-seventh, eighteen hundred and ninety-four, are further amended to read as follows:

Wine spirits used free of tax.

"SEC. 42. That any producer of pure sweet wines may use in the preparation of such sweet wines, under such regulations and after the filing of such notices and bonds, together with the keeping of such records and the rendition of such reports as to materials and products as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe, wine spirits produced by any duly authorized distiller, and the Commissioner of Internal Revenue, in determining the liability of any distiller of wine spirits to assessment under section thirty-three hundred and nine of the Revised Statutes, is authorized to allow such distiller credit in his computations for the wine spirits withdrawn to be used in fortifying sweet wines under this Act.

Wine spirits defined; when water may be used; alcoholic strength when water has been used.

"SEC. 43. That the wine spirits mentioned in section forty-two herein mentioned is the product resulting from the distillation of fermented grape juice, to which water may have been added prior to, during, or after fermentation, for the sole purpose of facilitating the fermentation and economical distillation thereof, and shall be held to include the product from grapes or their residues commonly known as grape brandy, and shall include commercial grape brandy which may have been colored with burnt sugar or caramel; and the pure sweet wine which may be fortified with wine spirits under the

provisions of this Act is fermented or partially fermented grape juice only, with the usual cellar treatment, and shall contain no other substance whatever introduced before, at the time of, or after fermentation, except as herein expressly provided: *Provided*, That the addition of pure boiled or condensed grape must or pure crystallized cane or beet sugar, or pure dextrose sugar containing, respectively, not less than ninety-five per centum of actual sugar, calculated on a dry basis, or water, or any or all of them, to the pure grape juice before fermentation, or to the fermented product of such grape juice, or to both, prior to the fortification herein provided for, either for the purpose of perfecting sweet wines according to commercial standards or for mechanical purposes, shall not be excluded by the definition of pure sweet wine aforesaid: *Provided, however*, That the cane or beet sugar, or pure dextrose sugar added for sweetening purposes shall not be in excess of eleven per centum of the weight of the wine to be fortified: *And provided further*, That the addition of water herein authorized shall be under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may from time to time prescribe: *Provided, however*, That records kept in accordance with such regulations as to the percentage of saccharine, acid, alcoholic, and added water content of the wine offered for fortification shall be open to inspection by any official of the Department of Agriculture thereto duly authorized by the Secretary of Agriculture; but in no case shall such wines to which water has been added be eligible for fortification under the provisions of this Act, where the same, after fermentation and before fortification, have an alcoholic strength of less than five per centum of their volume.

Withdrawal of spirits from warehouse free of tax.

"SEC. 45. That under such regulations and official supervision, and upon the execution of such entries and the giving of such bonds, bills of lading, and other security as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe, any producer of pure sweet wines as defined by this Act may withdraw wine spirits from any special bonded warehouse in original packages or from any registered distillery in any quantity not less than eighty wine gallons, and may use so much of the same as may be required by him under such regulations, and after the filing of such notices and bonds and the keeping of such records and the rendition of such reports as to materials and products and the disposition of the same as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe, in fortifying the pure sweet wines made by him, and for no other purpose, in accordance with the foregoing limitations and provisions; and the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is authorized whenever he shall deem it to be necessary for the prevention of violations of this law to prescribe that wine spirits withdrawn under this section shall not be used to fortify wines except at a certain distance prescribed by him from any distillery, rectifying house, winery, or other establishment used for producing or storing distilled spirits, or for making or storing wines other than wines which are so fortified, and that in the building in which such fortification of wines is practiced no wines or spirits

other than those permitted by this regulation shall be stored in any room or part of the building in which fortification of wines is practiced. The use of wine spirits for the fortification of sweet wines under this Act shall be under the immediate supervision of an officer of internal revenue, who shall make returns describing the kinds and quantities of wine so fortified, and shall affix such stamps and seals to the packages containing such wines as may be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury; and the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall provide by regulations the time within which wines so fortified with the wine spirits so withdrawn may be subject to inspection, and for final accounting for the use of such wine spirits and for rewarehousing or for payment of the tax on any portion of such wine spirits which remain not used in fortifying pure sweet wines."

Removal for storage on bonded premises.

(d) That under such regulations and upon the execution of such notices, entries, bonds, and other security as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe, domestic wines subject to the tax imposed by this section may be removed from the winery where produced, free of tax, for storage on other bonded premises or from said premises to other bonded premises: *Provided*, That not more than one such additional removal shall be allowed, or for exportation from the United States or for use as distilling material at any regularly registered distillery: *Provided, however*, That the distiller using any such wine as material shall, subject to the provisions of section thirty-three hundred and nine of the Revised Statutes of the United States, as amended, be held to pay the tax on the product of such wines as will include both the alcoholic strength therein produced by fermentation and that obtained from the brandy or wine spirits added to such wines at the time of fortification.

Regulations governing transfer of wines free of tax from bonded premises to manufacturing warehouse. (T. D. 2738.)

Wines, liqueurs, and similar compounds.

(e) That upon all domestic and imported sparkling wines, liqueurs, cordials, and similar compounds remaining in the hands of dealers when this section takes effect, or thereafter removed from the place of manufacture or storage for sale or consumption, there shall be levied and paid, by stamp, taxes as follows:

On each bottle or other container of champagne or sparkling wine, 8 cents on each one-half pint or fraction thereof.

On each bottle or other container of artificially carbonated wine, 1½ cents on each one-half pint or fraction thereof.

On each bottle or other container of liqueurs, cordials, or similar compounds, by whatever name sold or offered for sale, containing sweet wine, fortified with grape brandy under the provisions of paragraph (c) of this section, 1½ cents on each one-half pint or fraction thereof.

The taxes imposed by this section shall not apply to wines, liqueurs, or cordials on which the tax imposed by the Act approved October

twenty-second, nineteen hundred and fourteen, entitled "An Act to increase the internal revenue, and for other purposes," and the joint resolution approved December seventeenth, nineteen hundred and fifteen, entitled "Joint resolution extending the provisions of the Act entitled 'An Act to increase the internal revenue, and for other purposes,' approved October twenty-second, nineteen hundred and fourteen, to December thirty-first, nineteen hundred and sixteen," has been paid by stamp.

The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is hereby authorized to have prepared suitable revenue stamps denoting the payment of the taxes imposed by this section; and all provisions of law relating to internal-revenue stamps, so far as applicable, are hereby extended to the taxes imposed by this section: *Provided*, That the collection of the tax herein prescribed on imported still wines, including vermouth, and sparkling wines, including champagne, and on imported liqueurs, cordials, and similar compounds, may be made within the discretion of the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, by assessment instead of by stamps.

Penalties.

(f) That any person who shall evade or attempt to evade the tax imposed by this section, or any requirement of this section or regulation issued pursuant thereof, or who shall, otherwise than provided in this section, recover or attempt to recover any spirits from domestic or imported wine, or who shall rectify, mix, or compound with distilled spirits any domestic wines, other than in the manufacture of liqueurs, cordials, or similar compounds taxable under the provisions of this section, shall, on conviction, be punished for each such offense by a fine of not exceeding \$5,000, or imprisonment for not more than five years, or both, and all wines, spirits, liqueurs, cordials, or similar compounds as to which such violation occurs shall be forfeited to the United States. But the provision of this subdivision of this section and the provision of section thirty-two hundred and forty-four of the Revised Statutes of the United States, as amended, relating to rectification, or other internal-revenue laws of the United States, shall not be held to apply to or prohibit the mixing or blending of wines subject to tax under the provisions of this section with each other or with other wines for the sole purpose of perfecting such wines according to commercial standards: *Provided*, That nothing herein contained shall be construed as prohibiting the use of tax-paid grain or other ethyl alcohol in the fortification of sweet wines as defined in section fifty-three of this Act.

Meters, locks, and seals.

(g) That the Commissioner of Internal Revenue, by regulations to be approved by the Secretary of the Treasury, may require the use at each fruit distillery of such spirit meters, and such locks and seals to be affixed to fermenters, tanks, or other vessels and to such pipe connections as may in his judgment be necessary or expedient; and the said commissioner is hereby authorized to assign to any such distillery and to each winery where wines are to be fortified

such number of gaugers or storekeeper-gaugers in the capacity of gaugers as may be necessary for the proper supervision of the manufacture of brandy or the making or fortifying of wines subject to tax imposed by this section; and the compensation of such officers shall not exceed \$5 per diem while so assigned, together with their actual and necessary traveling expenses, and also a reasonable allowance for their board bills, to be fixed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, but not to exceed \$2.50 per diem for said board bills.

Allowances for losses.

(h) That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is hereby authorized to make such allowances for unavoidable loss of wines while on storage or during cellar treatment as in his judgment may be just and proper, and to prepare all necessary regulations for carrying into effect the provisions of this section.

Section 3264, Revised Statutes, amended.

(i) That the second paragraph of section thirty-two hundred and sixty-four, Revised Statutes of the United States of America, as amended by section five of the Act of March first, eighteen hundred and seventy-nine, and as further amended by the Act of Congress approved June twenty-second, nineteen hundred and ten, be amended so as to read as follows:

"In all surveys forty-five gallons of mash or beer brewed or fermented from grain shall represent not less than one bushel of grain, and seven gallons of mash or beer brewed or fermented from molasses shall represent not less than one gallon of molasses, except in distilleries operated on the sour-mash principle, in which distilleries sixty gallons of beer brewed or fermented from grain shall represent not less than one bushel of grain, and except that in distilleries where the filtration-aeration process is used, with the approval of the Commissioner of Internal Revenue; that is, where the mash after it leaves the mash tub is passed through a filtering machine before it is run into the fermenting tub, and only the filtered liquor passes into the fermenting tub, there shall hereafter be no limitation upon the number of gallons of water which may be used in the process of mashing or filtration for fermentation; but the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, in order to protect the revenue, shall be authorized to prescribe by regulation, to be made by him, such character of survey as he may find suitable for distilleries using such filtration-aeration process. The provisions hereof relating to filtration-aeration process shall apply only to sweet-mash distilleries."

Withdrawal for export.

SEC. 403. That under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe, alcohol or other distilled spirits of a proof strength of not less than one hundred and eighty degrees intended for export free of tax may be drawn from receiving cisterns at any distillery, or from storage tanks in any distillery warehouse, for transfer to tanks

or tank cars for export from the United States, and all provisions of existing law relating to the exportation of distilled spirits not inconsistent herewith shall apply to spirits removed for export under the provisions of this Act.

Regulations governing exportation of alcohol in tanks or tank cars. (T. D. 2362.)

Section 3255, Revised Statutes, amended.

SEC. 404. That section thirty-two hundred and fifty-five of the Revised Statutes as amended by Act of June third, eighteen hundred and ninety-six, and as further amended by Act of March second, nineteen hundred and eleven, be further amended so as to read as follows:

"SEC. 3255. The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may exempt distillers of brandy made exclusively from apples, peaches, grapes, pears, pine-apples, oranges, apricots, berries, plums, pawpaws, persimmons, prunes, figs, or cherries from any provision of this title relating to the manufacture of spirits, except as to the tax thereon, when in his judgment it may seem expedient to do so: *Provided*, That where, in manufacture of wine, artificial sweetening has been used the wine or the fruit pomace residuum may be used in the distillation of brandy, as such use shall not prevent the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, from exempting such distiller from any provision of this title relating to the manufacture of spirits, except as to the tax thereon, when in his judgment it may seem expedient to do so: *And provided further*, That the distillers mentioned in this section may add to not less than five hundred gallons (or ten barrels) of grape cheese not more than five hundred gallons of a sugar solution made from cane, beet, starch, or corn sugar, ninety-five per centum pure, such solution to have a saccharine strength of not to exceed ten per centum, and may ferment the resultant mixture on a winery or distillery premises, and such fermented product shall be regarded as distilling material."

Exemption of distillers of brandy from grape juice, to which sugar solution has been added after manufacture of wine, either at the winery or on distillery premises, from same provision of law from which distillers of brandy from other authorized fruits have been exempted. (T. D. 2373.)

Gin; Bottling in bond.

SEC. 405. That distilled spirits known commercially as gin of not less than 80 per centum proof may at any time within eight years after entry in bonds at any distillery be bottled in bond at such distillery for export without the payment of tax, under such rules and regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe.

Regulations governing withdrawal and bottling in bond for export of gin before expiration of four years after entry in bonded distillery warehouse. (T. D. 2371.)

Section 3554, Revised Statutes, amended.

SEC. 406. That section thirty-three hundred and fifty-four of the Revised Statutes of the United States as amended by the Act approved

June eighteenth, eighteen hundred and ninety, be, and is hereby, amended to read as follows:

"SEC. 3354. Every person who withdraws any fermented liquor from any hogshead, barrel, keg, or other vessel upon which the proper stamp has not been affixed for the purpose of bottling the same, or who carries on or attempts to carry on the business of bottling fermented liquor in any brewery or other place in which fermented liquor is made, or upon any premises having communication with such brewery, or any warehouse, shall be liable to a fine of \$500, and the property used in such bottling or business shall be liable to forfeiture: *Provided, however,* That this section shall not be construed to prevent the withdrawal and transfer of unfermented, partially fermented, or fermented liquors from any of the vats in any brewery by way of a pipe line or other conduit to another building or place for the sole purpose of bottling the same, such pipe line or conduit to be constructed and operated in such manner and with such cisterns, vats, tanks, valves, cocks, faucets, and gauges, or other utensils or apparatus, either on the premises of the brewery or the bottling house, and with such changes of or additions thereto, and such locks, seals, or other fastenings, and under such rules and regulations as shall be from time to time prescribed by the Commissioner of Internal Revenue, subject to the approval of the Secretary of the Treasury, and all locks and seals prescribed shall be provided by the Commissioner of Internal Revenue at the expense of the United States: *Provided further,* That the tax imposed in section thirty-three hundred and thirty-nine of the Revised Statutes of the United States shall be paid on all fermented liquor removed from a brewery to a bottling house by means of a pipe or conduit, at the time of such removal, by the cancellation and defacement, by the collector of the district or his deputy, in the presence of the brewer, of the number of stamps denoting the tax on the fermented liquor thus removed. The stamps thus canceled and defaced shall be disposed of and accounted for in the manner directed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury. And any violation of the rules and regulations hereafter prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, in pursuance of these provisions, shall be subject to the penalties above provided by this section. Every owner, agent, or superintendent of any brewery or bottling house who removes, or connives at the removal of, any fermented liquor through a pipe line or conduit, without payment of the tax thereon, or who attempts in any manner to defraud the revenue as above, shall forfeit all the liquors made by and for him, and all the vessels, utensils, and apparatus used in making the same."

Special taxes.

SEC. 407. That on and after January first, nineteen hundred and seventeen, special taxes shall be, and hereby are, imposed annually, as follows, that is to say:

Every corporation, joint-stock company or association, now or hereafter organized in the United States for profit and having a capital stock represented by shares, and every insurance company, now or hereafter organized under the laws of the United States, or

any State or Territory of the United States, shall pay annually a special excise tax with respect to the carrying on or doing business by such corporation, joint-stock company or association, or insurance company, equivalent to 50 cents for each \$1,000 of the fair value of its capital stock and in estimating the value of capital stock the surplus and undivided profits shall be included: *Provided*, That in the case of insurance companies such deposits and reserve funds as they are required by law or contract to maintain or hold for the protection of or payment to or apportionment among policyholders shall not be included. The amount of such annual tax shall in all cases be computed on the basis of the fair average value of the capital stock for the preceding year: *Provided*, That for the purpose of this tax an exemption of \$99,000 shall be allowed from the capital stock as defined in this paragraph of each corporation, joint-stock company or association, or insurance company: *Provided further*, That a corporation, joint-stock company or association, or insurance company, actually paying the tax imposed by section three hundred and one of Title III of this Act shall be entitled to a credit as against the tax imposed by this paragraph equal to the amount of the tax so actually paid: *And provided further*, That this tax shall not be imposed upon any corporation, joint-stock company or association, or insurance company not engaged in business during the preceding taxable year, or which is exempt under the provisions of section eleven, Title I, of this Act.

Every corporation, joint-stock company or association, or insurance company, now or hereafter organized for profit under the laws of any foreign country and engaged in business in the United States shall pay annually a special excise tax with respect to the carrying on or doing business in the United States by such corporation, joint-stock company or association, or insurance company, equivalent to 50 cents for each \$1,000 of the capital actually invested in the transaction of its business in the United States: *Provided*, That in the case of insurance companies such deposits or reserve funds as they are required by law or contract to maintain or hold in the United States for the protection of or payment to or apportionment among policyholders, shall not be included. The amount of such annual tax shall in all cases be computed on the basis of the average amount of capital so invested during the preceding year: *Provided*, That for the purpose of this tax an exemption from the amount of capital so invested shall be allowed equal to such proportion of \$99,000 as the amount so invested bears to the total amount invested in the transaction of business in the United States or elsewhere: *Provided further*, That this exemption shall be allowed only if such corporation, joint-stock company or association, or insurance company makes return to the Commissioner of Internal Revenue, under regulations prescribed by him, with the approval of the Secretary of the Treasury, of the amount of capital invested in the transaction of business outside the United States: *And provided further*, That a corporation, joint-stock company or association, or insurance company actually paying the tax imposed by section three hundred and one of Title III of this act, shall be entitled to a credit as against the tax imposed by this paragraph equal to the amount of the tax so actually paid: *And provided further*, That this tax shall not be imposed upon any corporation, joint-stock company or association, or insurance com-

pany not engaged in business during the preceding taxable year, or which is exempt under the provisions of section eleven, Title I, of this Act.¹

Second. Brokers shall pay \$30. Every person, firm, or company, whose business it is to negotiate purchases or sales of stocks, bonds, exchange, bullion, coined money, bank notes, promissory notes, or other securities, for others, shall be regarded as a broker.

Third. Pawnbrokers shall pay \$50. Every person, firm, or company whose business or occupation it is to take or receive, by way of pledge, pawn, or exchange, any goods, wares, or merchandise, or any kind of personal property whatever, as security for the repayment of money loaned thereon, shall be deemed a pawnbroker.

Fourth. Ship brokers shall pay \$20. Every person, firm, or company whose business it is as a broker to negotiate freights and other business for the owners of vessels, or for the shippers or consignors or consignees of freight carried by vessels, shall be regarded as a ship broker under this section.

Fifth. Customhouse brokers shall pay \$10. Every person, firm, or company whose occupation it is, as the agent of others, to arrange entries and other customhouse papers, or transact business at any port of entry relating to the importation or exportation of goods, wares, or merchandise, shall be regarded as a customhouse broker.

Sixth. Proprietors of theaters, museums, and concert halls, where a charge for admission is made, having a seating capacity of not more than two hundred and fifty, shall pay \$25; having a seating capacity of more than two hundred and fifty and not exceeding five hundred, shall pay \$50; having a seating capacity exceeding five hundred and not exceeding eight hundred, shall pay \$75; having a seating capacity of more than eight hundred, shall pay \$100. Every edifice used for the purpose of dramatic or operatic or other representations, plays, or performances, for admission to which entrance money is received, not including halls or armories rented or used occasionally for concerts or theatrical representations, shall be regarded as a theater: *Provided*, That in cities, towns, or villages of five thousand inhabitants or less the amount of such payment shall be one-half of that above stated: *Provided further*, That whenever any such edifice is under lease at the passage of this Act, the tax shall be paid by the lessee, unless otherwise stipulated between the parties to said lease.

Seventh. The proprietor or proprietors of circuses shall pay \$100. Every building, space, tent, or area where feats of horsemanship or acrobatic sports or theatrical performances not otherwise provided for in this section are exhibited shall be regarded as a circus: *Provided*, That no special tax paid in one State, Territory, or the District of Columbia shall exempt exhibitions from the tax in another State, Territory, or the District of Columbia, and but one special tax shall be imposed for exhibitions within any one State, Territory, or District.

Eighth. Proprietors or agents of all other public exhibitions or shows for money not enumerated in this section shall pay \$10: *Provided*, That a special tax paid in one State, Territory, or the District of Columbia shall not exempt exhibitions from the tax in another State, Territory, or the District of Columbia, and but one special

¹ See Regulations No. 38 (T. D. 2750).

tax shall be required for exhibitions within any one State, Territory, or the District of Columbia: *Provided further*, That this paragraph shall not apply to Chautauquas, lecture lyceums, agricultural or industrial fairs, or exhibitions held under the auspices of religious or charitable associations: *Provided further*, That an aggregation of entertainments, known as a street fair, shall not pay a larger tax than \$100 in any State, Territory, or in the District of Columbia.

Ninth. Proprietors of bowling alleys and billiard rooms shall pay \$5 for each alley or table. Every building or place where bowls are thrown or where games of billiards or pool are played, except in private homes, shall be regarded as a bowling alley or a billiard room, respectively.

Liability to capital stock tax of railroad corporations whose properties are held and operated by Federal Government under Army appropriation act of August 29, 1916. (T. D. 2800.)

Limited partnership of Pennsylvania type of partnerships with limited liability are corporations or joint-stock companies, and limited partnerships of the New York type are partnerships. (T. D. 2711.)

Synopsis decision relative to capital stock tax. (T. Ds. 2417, 2423, 2467.)

Citations from Supreme Court decisions regarding "doing business" with relation to capital stock tax. (T. D. 2418.)

Holding companies organized in United States for profit held subject to capital stock tax. (T. D. 2429.)

Corporations in possession and control of receivers and held not taxable under act of August 5, 1909, are subject to capital stock tax. (T. D. 2424.)

Post exchanges, if under Government control, not liable to special tax for operating billiard or pool tables or bowling alleys. (T. D. 2439.)

Corporation organized to buy, own, explore, develop, lease, improve, sell, and deal in lumber lands, mining lands, or other real property is "engaged in business" and subject to capital stock tax. (T. D. 2457.)

Pool tables and bowling alleys are exempt from special tax if tax would fall upon public treasury; otherwise tax is due on account of pool tables and bowling alleys in States armories, fire houses, etc., and also in clubs, Y. M. C. A. buildings, hotels, etc. (T. D. 2462.)

One who holds himself out as dealing in exchange and in the regular course of business accepts orders and takes them to a bank for execution by the latter, receiving substantial remuneration for his services, is liable to tax as a broker. (T. D. 2785.)

Tobacco, cigar, and cigarette manufacturers.

SEC. 408. That on and after January first, nineteen hundred and seventeen, special taxes on tobacco, cigar, and cigarette manufacturers shall be, and hereby are, imposed annually as follows, the amount of such annual taxes to be computed in all cases on the basis of the annual sales for the preceding fiscal year:

Manufacturers of tobacco whose annual sales do not exceed fifty thousand pounds shall each pay \$3;

Manufacturers of tobacco whose annual sales exceed fifty thousand and do not exceed one hundred thousand pounds shall each pay \$6;

Manufacturers of tobacco whose annual sales exceed one hundred thousand and do not exceed two hundred thousand pounds shall each pay \$12;

Manufacturers of tobacco whose annual sales exceed two hundred thousand pounds shall each pay at the rate of 8 cents per thousand pounds, or fraction thereof;

Manufacturers of cigars whose annual sales do not exceed fifty thousand cigars shall each pay \$2;

Manufacturers of cigars whose annual sales exceed fifty thousand and do not exceed one hundred thousand cigars shall each pay \$3;

Manufacturers of cigars whose annual sales exceed one hundred thousand and do not exceed two hundred thousand cigars shall each pay \$6;

Manufacturers of cigars whose annual sales exceed two hundred thousand and do not exceed four hundred thousand cigars shall each pay \$12;

Manufacturers of cigars whose annual sales exceed four hundred thousand cigars shall each pay at the rate of 5 cents per thousand cigars, or fraction thereof;

Manufacturers of cigarettes, including small cigars weighing not more than three pounds per thousand, shall each pay at the rate of 3 cents for every ten thousand cigarettes, or fraction thereof.

In arriving at the amount of special tax to be paid under this section, and in the levy and collection of such tax, each person, firm, or corporation engaged in the manufacture of more than one of the classes of articles specified in this section shall be considered and deemed a manufacturer of each class separately.

Every person who carries on any business or occupation for which special taxes are imposed by this title, without having paid the special tax therein provided, shall, besides being liable to the payment of such special tax, be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not more than \$500, or be imprisoned not more than six months, or both, in the discretion of the court.

Application of earlier laws; records and returns.

SEC. 409. That all administrative or special provisions of law, including the law relating to the assessment of taxes, so far as applicable, are hereby extended to and made a part of this title, and every person, firm, company, corporation, or association liable to any tax imposed by this title, shall keep such records and render, under oath, such statements and returns, and shall comply with such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may from time to time prescribe.

Partial repeal of earlier laws.

SEC. 410. That the Act approved October twenty-second, nineteen hundred and fourteen, entitled "An Act to increase the internal revenue, and for other purposes," and the joint resolution approved December seventeenth, nineteen hundred and fifteen, entitled "Joint resolution extending the provisions of the Act entitled 'An Act to increase the internal revenue, and for other purposes,' approved October twenty-second, nineteen hundred and fourteen, to December thirty-first, nineteen hundred and sixteen," are hereby repealed, except sections three and four of such Act as so extended, which sections shall remain in force till January first, nineteen hundred and seventeen, and except that the provisions of the said Act shall remain in force for the assessment and collection of all special taxes imposed by sections three and four thereof, or by such

sections as extended by said joint resolution, for any year or part thereof ending prior to January first, nineteen hundred and seventeen, and of all other taxes imposed by such Act, or by such Act as so extended, accrued prior to the taking effect of this title, and for the imposition and collection of all penalties or forfeitures which have accrued or may accrue in relation to any of such taxes.

Allowance for or redemption of stamps.

SEC. 411. That the Commissioner of Internal Revenue, subject to regulation prescribed by the Secretary of the Treasury, may make allowance for or redeem stamps, issued, under authority of the Act approved October twenty-second, nineteen hundred and fourteen, entitled "An Act to increase the internal revenue, and for other purposes," and the joint resolution approved December seventeenth, nineteen hundred and fifteen, entitled "Joint resolution extending the provisions of the Act entitled 'An Act to increase the internal revenue, and for other purposes,' approved October twenty-second, nineteen hundred and fourteen, to December thirty-first, nineteen hundred and sixteen," to denote the payment of internal revenue tax, and which have not been used, if presented within two years after the purchase of such stamps.

Title effective when.

SEC. 412. That the provisions of this title shall take effect on the day following the passage of this Act, except where otherwise in this title provided.

Leave of absence of revenue agents and inspectors.

SEC. 413. That all internal revenue agents and inspectors be granted leave of absence with pay, which shall not be cumulative, not to exceed thirty days in any calendar year, under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe.

Regulations relating to leave of absence. (T. D. 2369.)

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TITLE IX.

Effect of partial invalidity of act.

SEC. 900. That if any clause, sentence, paragraph, or part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of said Act, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

* * * * *

Act effective when.

SEC. 902. That unless otherwise herein specially provided, this Act shall take effect on the day following its passage, and all provisions of any Act or Acts inconsistent with the provisions of this Act are hereby repealed.

Citation of act.

SEC. 903. [*Added by sec. 1403, Act of February 24, 1919 (40 Stat., 1057).*] That this Act may be cited as the "Revenue Act of 1916."

CHAPTER 11.

AN ACT To provide increased revenue to defray the expenses of the increased appropriations for the Army and Navy and the extensions of fortifications, and for other purposes. Approved March 3, 1917 (39 Stat., 1000).

Title II—Excess-profits tax.

Definitions.

Extra tax on incomes of corporations and partnerships; insurance exception; computation.

Actual capital defined.

Basis of computation; collection; fiscal year of partnership; proportion for calendar year 1918.

Exemptions.

Statement by corporation of actual capital invested; detailed statement by partnership; deductions.

Title II—Excess-profits tax—Continued.

General laws applicable.

Regulations.

Title III—Estate tax.

Increase of rates.

Prior transfers at former rates.

Title IV—Miscellaneous.

Sworn returns of all dividends by corporations, etc.; names of shareholders.

TITLE II.—EXCESS-PROFITS TAX.¹

Definitions.

SEC. 200. That when used in this title—

The term "corporation" includes joint-stock companies or associations, and insurance companies;

The term "United States" means only the States, the Territories of Alaska and Hawaii, and the District of Columbia; and

The term "taxable year" means the twelve months ending December thirty-first, except in the case of a corporation or partnership allowed to fix its own fiscal year, in which case it means such fiscal year. The first taxable year shall be the year ending December thirty-first, nineteen hundred and seventeen.

Rates of taxes; computation.

SEC. 201. That in addition to the taxes under existing laws there shall be levied, assessed, collected, and paid for each taxable year upon the net income of every corporation and partnership organized, authorized, or existing under the laws of the United States, or of any State, Territory, or District thereof, no matter how created or organized, excepting income derived from the business of life, health, and accident insurance combined in one policy issued on the weekly premium payment plan, a tax of eight per centum of the amount by which such net income exceeds the sum of (a) \$5,000 and (b) eight per centum of the actual capital invested.

Every foreign corporation and partnership, including corporations and partnerships of the Philippine Islands and Porto Rico, shall pay

¹ Repealed by act of Oct. 3, 1917; sec. 214; see p. 861.

for each taxable year a like tax upon the amount by which its net income received from all sources within the United States exceeds the sum of (a) eight per centum of the actual capital invested and used or employed in the business in the United States, and (b) that proportion of \$5,000 which the entire actual capital invested and used or employed in the business in the United States bears to the entire actual capital invested; and in case no such capital is used or employed in the business in the United States the tax shall be imposed upon that portion of such net income which is in excess of the sum of (a) eight per centum of that proportion of the entire actual capital invested and used or employed in the business which the net income from sources within the United States bears to the entire net income, and (b) that proportion of \$5,000 which the net income from sources within the United States bears to the entire net income.

Actual capital defined.

SEC. 202. That for the purpose of this title actual capital invested means (1) actual cash paid in, (2) the actual cash value at the time of payment of assets other than cash paid in, and (3) paid in or earned surplus and undivided profits used or employed in the business; but does not include money or other property borrowed by the corporation or partnership.

Computation of tax; collection.

SEC. 203. That the tax herein imposed upon corporations and partnerships shall be computed upon the basis of the net income shown by their income-tax returns under Title I of the act entitled "An act to increase the revenue, and for other purposes," approved September eighth, nineteen hundred and sixteen, or under this title, and shall be assessed and collected at the same time and in the same manner as the income tax due under Title I of such act of September eighth, nineteen hundred and sixteen: *Provided*, That for the purpose of this title a partnership shall have the same privilege with reference to fixing its fiscal year as is accorded corporations under section thirteen (a) of Title I of such act of September eighth, nineteen hundred and sixteen: *And provided further*, That where a corporation or partnership makes return prior to March first, nineteen hundred and eighteen, covering its own fiscal year and includes therein any income received during the calendar year ending December thirty-first, nineteen hundred and sixteen, the tax herein imposed shall be that proportion of the tax based upon such full fiscal year which the time from January first, nineteen hundred and seventeen, to the end of such fiscal year bears to the full fiscal year.

Exemptions.

SEC. 204. That corporations exempt from tax under the provisions of section eleven of Title I of the act approved September eighth, nineteen hundred and sixteen, and partnerships carrying on or doing the same business shall be exempt from the provisions of this title, and the tax imposed by this title shall not attach to incomes of partnerships derived from agriculture or from personal services.

Statement in return; deductions.

SEC. 205. That every corporation having a net income of \$5,000 or more for the taxable year making a return under Title I of such act of September eighth, nineteen hundred and sixteen, shall for the purposes of this title include in such return a detailed statement of the actual capital invested.

Every partnership having a net income of \$5,000 or more for the taxable year shall render a correct return of the income of the partnership for the taxable year, setting forth specifically the actual capital invested and the gross income for such year and the deductions hereinafter allowed. Such returns shall be rendered at the same time and in the same manner and form as is prescribed for income-tax returns under Title I of such act of September eighth, nineteen hundred and sixteen. In computing net income of a partnership for the purposes of this title there shall be allowed like deductions as are allowed to individuals in sections five (a) and six (a) of such act of September eighth, nineteen hundred and sixteen.

General laws applicable.

SEC. 206. That all administrative, special, and general provisions of law, including the laws in relation to the assessment, remission, collection, and refund of internal-revenue taxes not heretofore specifically repealed and not inconsistent with the provisions of this title are hereby extended and made applicable to all the provisions of this title and to the tax herein imposed, and all provisions of Title I of such act of September eighth, nineteen hundred and sixteen, relating to returns and payment of the tax therein imposed, including penalties, are hereby made applicable to the tax required by this title.

Regulations.

SEC. 207. That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall make all necessary regulations for carrying out the provisions of this title and may require any corporation or partnership subject to the provisions of this title to furnish him with such facts, data, and information as in his judgment are necessary to collect the tax provided for in this title.

TITLE III.—ESTATE TAX.¹*Rates increased.*

SEC. 300. That section two hundred and one, Title II, of the Act entitled "An Act to increase the revenue, and for other purposes," approved September eighth, nineteen hundred and sixteen be, and the same is hereby, amended to read as follows:

"**SEC. 201.** That a tax (hereinafter in this title referred to as the tax), equal to the following percentages of the value of the net estate, to be determined as provided in section two hundred and three, is

¹ Repealed by act of Feb. 24, 1919, sec. 1400; see p. 632.

hereby imposed upon the transfer of the net estate of every decedent dying after the passage of this Act, whether a resident or nonresident of the United States:

"One and one-half per centum of the amount of such net estate not in excess of \$50,000;

"Three per centum of the amount by which such net estate exceeds \$50,000 and does not exceed \$150,000;

"Four and one-half per centum of the amount by which such net estate exceeds \$150,000 and does not exceed \$250,000;

"Six per centum of the amount by which such net estate exceeds \$250,000 and does not exceed \$450,000;

"Seven and one-half per centum of the amount by which such net estate exceeds \$450,000 and does not exceed \$1,000,000;

"Nine per centum of the amount by which such net estate exceeds \$1,000,000 and does not exceed \$2,000,000;

"Ten and one-half per centum of the amount by which such net estate exceeds \$2,000,000 and does not exceed \$3,000,000;

"Twelve per centum of the amount by which such net estate exceeds \$3,000,000 and does not exceed \$4,000,000;

"Thirteen and one-half per centum of the amount by which such net estate exceeds \$4,000,000 and does not exceed \$5,000,000; and

"Fifteen per centum of the amount by which such net estate exceeds \$5,000,000."

Prior transfers at former rates.

SEC. 301. That the tax on the transfer of the net estate of decedents dying between September eighth, nineteen hundred and sixteen, and the passage of this Act shall be computed at the rates originally prescribed in the Act approved September eighth, nineteen hundred and sixteen.

TITLE IV.—MISCELLANEOUS.

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Sworn returns of dividends; names of shareholders.

SEC. 402.¹ That Title I of the Act entitled "An Act to increase the revenue, and for other purposes," approved September eighth, nineteen hundred and sixteen, be amended by adding to Part III a new section, as follows:

"SEC. 26. Every corporation, joint-stock company or association, or insurance company subject to the tax herein imposed, when required by the Commissioner of Internal Revenue, shall render a correct return, duly verified under oath, of its payments of dividends, whether made in cash or its equivalent or in stock, including the names and addresses of stockholders and the number of shares owned by each, in such form and manner as may be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury."

¹ Amended by Act of Oct. 8, 1917, sec. 1210; see p. 899.

CHAPTER 12.

AN ACT To provide revenue to defray war expenses, and for other purposes.
Approved October 3, 1917 (40 Stat., 300).

Title I—War income tax.

Additional normal tax.

Additional tax for 1917 and subsequent years.

Computation, levy, assessment, collection, and payment; exemptions; returns; withholding at source.

Additional tax on corporations, etc.; computation, etc.

Porto Rico and Philippine Islands.

Alaska railroads. (Act July 18, 1914.)

Title II—War excess-profits tax.

Definitions.

Rate of tax; exemptions.

Foreign corporations or nonresident aliens.

Deductions.

Deduction if not in business during prewar period.

Corporations having no net income during prewar period or percentage very low; claim for abatement.

Ascertaining net income.

"Invested capital" defined.

Reorganization, consolidation, or change of ownership.

No invested capital or only nominal capital.

Deduction when unable to determine invested capital.

Returns.

General provisions of law applicable.

Regulations.

Repeal and amendment of former acts.

Title III—War tax on beverages.

Distilled spirits when used as beverage or as ingredient.

Importation of distilled spirits.

Removal of spirits from distilleries.

Stock of distilled spirits on hand intended for sale.

Additional tax on rectified spirits.

Discontinuance of certain stamps authorized.

Meters, tanks, pipes, and other apparatus at distilleries, etc.

Additional tax on fermented liquors.

Conveyance of taxable fermented liquors to be used as distilling material.

Additional tax on wine, including vermouth.

Title III—War tax on beverages—Continued.

Wines in excess of 25 gallons on hand for sale.

Additional tax on grape brandy or wine spirits.

Additional tax on grape brandy or wine spirits for fortifying purposes.

Sirups or extracts, etc., containing less than one-half of 1 per cent alcohol; natural mineral waters.

Returns, monthly.

Carbonic-acid gas in drums or other containers.

Title IV—War tax on cigars, tobacco, and manufactures thereof.

Additional tax on cigars and cigarettes.

Additional tax on tobacco and snuff; additional packages.

Packages of cigarettes, tobacco, and snuff.

Tax on tobacco, snuff, cigars, or cigarettes removed prior to passage of act.

Cigarette paper and tubes.

Title V—War tax on facilities furnished by public utilities, and insurance.

Amounts paid for transportation by rail or water.

By whom tax shall be paid; exemption.

Exemption.

Collection of tax; returns.

Insurance policies, issuance of; exemption.

Returns, monthly, in duplicate.

Title VI—War excise taxes.

Articles subject to tax.

Returns, monthly.

Articles on hand at passage of the act.

Boats and yachts.

Title VII—War tax on admissions and dues.

Exemption and definition.

Membership fees or dues; exemptions.

How and from whom tax collected.

Title VIII—War stamp taxes.

On and after December 1, 1917.

Exemptions.

Penalty for violation.

Mutilation, fraudulent use of, removal, unlawful possession of stamps; penalty.

Title VIII—War stamp taxes—Continued.

Cancellation of stamps.

Stamps, preparation; contract; extension of laws relative to assessment and collection of tax.

Postmaster General to be furnished stamps.

Assistant treasurers to be furnished stamps; Schedule A.

Title IX—War estate tax.

Additional tax.

Exemption during war.

Acceptance of Liberty bonds in payment of tax. (Act of April 4, 1918.)

Title X—Administrative provisions.

West Indian Islands acquired from Denmark, articles to and from.

Extension of administrative provisions of law.

Returns where additional taxes are imposed; payment extended.

Collection of tax; applicability of provisions.

Title X—Administrative provisions—Continued.

Penalty for failure to make return or making false or fraudulent return.

Rules and regulations.

Use of stamps on hand authorized.

Prior contracts; definition of "dealer."

Fractions of a cent.

Advance payments and credits.

Certificates of indebtedness; uncertified checks.

Title XII—Income-tax amendments.

Act of September 8, 1916 (secs. 2, 4-10, 12, 13, 18, 26).

Act of September 8, 1916 (secs. 27-32 added).

Releasing amount of tax retained by withholding agent.

Title XIII—General provisions.

Effect of partial invalidity.

Repeal of Title I, act of March 3, 1917.

Date effective.

Citation of act.

TITLE I.—WAR INCOME TAX.

Additional normal tax.

SECTION 1. That in addition to the normal tax imposed by subdivision (a) of section one of the Act entitled "An Act to increase the revenue, and for other purposes," approved September eighth, nineteen hundred and sixteen, there shall be levied, assessed, collected, and paid a like normal tax of two per centum upon the income of every individual, a citizen or resident of the United States, received in the calendar year nineteen hundred and seventeen and every calendar year thereafter.

Proceeds of accident insurance policy received on account of personal injuries are not taxable income, nor is amount received by individual as result of suit or compromise for personal injuries sustained through accident. (T. D. 2747.)

Money received by defendant through embezzling moneys delivered to him to be paid as insurance premiums was not subject to taxation. (Rau v. United States, 260 Fed., 131.)

Additional tax for 1917 and subsequent years.

SEC. 2. That in addition to the additional tax imposed by subdivision (b) of section one of such Act of September eighth, nineteen hundred and sixteen, there shall be levied, assessed, collected, and paid a like additional tax upon the income of every individual received in the calendar year nineteen hundred and seventeen and every calendar year thereafter, as follows:

One per centum per annum upon the amount by which the total net income exceeds \$5,000 and does not exceed \$7,500;

Two per centum per annum upon the amount by which the total net income exceeds \$7,500 and does not exceed \$10,000;

Three per centum per annum upon the amount by which the total net income exceeds \$10,000 and does not exceed \$12,500;

Four per centum per annum upon the amount by which the total net income exceeds \$12,500 and does not exceed \$15,000;

Five per centum per annum upon the amount by which the total net income exceeds \$15,000 and does not exceed \$20,000;

Seven per centum per annum upon the amount by which the total net income exceeds \$20,000 and does not exceed \$40,000;

Ten per centum per annum upon the amount by which the total net income exceeds \$40,000 and does not exceed \$60,000;

Fourteen per centum per annum upon the amount by which the total net income exceeds \$60,000 and does not exceed \$80,000;

Eighteen per centum per annum upon the amount by which the total net income exceeds \$80,000 and does not exceed \$100,000;

Twenty-two per centum per annum upon the amount by which the total net income exceeds \$100,000 and does not exceed \$150,000;

Twenty-five per centum per annum upon the amount by which the total net income exceeds \$150,000 and does not exceed \$200,000;

Thirty per centum per annum upon the amount by which the total net income exceeds \$200,000 and does not exceed \$250,000;

Thirty-four per centum per annum upon the amount by which the total net income exceeds \$250,000 and does not exceed \$300,000;

Thirty-seven per centum per annum upon the amount by which the total net income exceeds \$300,000 and does not exceed \$500,000;

Forty per centum per annum upon the amount by which the total net income exceeds \$500,000 and does not exceed \$750,000.

Forty-five per centum per annum upon the amount by which the total net income exceeds \$750,000 and does not exceed \$1,000,000.

Fifty per centum per annum upon the amount by which the total net income exceeds \$1,000,000.

Computation, levy, assessment, collection, and payment; exemptions; returns; withholding at source.

SEC. 3. That the taxes imposed by sections one and two of this Act shall be computed, levied, assessed, collected, and paid upon the same basis and in the same manner as the similar taxes imposed by section one of such Act of September eighth, nineteen hundred and sixteen, except that in the case of the tax imposed by section one of this Act (a) the exemptions of \$3,000 and \$4,000 provided in section seven of such Act of September eighth, nineteen hundred and sixteen, as amended by this Act, shall be, respectively, \$1,000 and \$2,000, and (b) the returns required under subdivisions (b) and (c) of section eight of such Act as amended by this Act shall be required in the case of net incomes of \$1,000 or over, in the case of unmarried persons, and \$2,000 or over in the case of married persons, instead of \$3,000 or over, as therein provided, and (c) the provisions of subdivision (c) of section nine of such Act, as amended by this Act, requiring the normal tax of individuals on income derived from interest to be deducted and withheld at the source of the income shall not apply to the new two per centum normal tax prescribed in section one of this Act until on and after January first, nineteen hundred and eighteen, and thereafter only one two per centum normal tax shall be deducted and withheld at the source under the provisions of such subdivision (c), and any further normal tax for which the recipient of such in-

come is liable under this Act or such Act of September eighth, nineteen hundred and sixteen, as amended by this Act, shall be paid by such recipient.

Returns made upon basis of cost or market value, whichever is lower, accepted. (T. Ds. 2609, 2649, 2740, 2744.)

Interest on bank deposits paid to nonresident alien individuals held subject to withholding provisions of act. (T. D. 2652.)

Partnerships or individuals paying officers or business employees salaries and wages during war period in which in service of United States may deduct amount so paid as expenses. (T. D. 2660.)

Instructions governing preparation of income tax returns by farmers. (T. D. 2665.)

Additional tax on corporations, etc.; computation, etc.

SEC. 4. That in addition to the tax imposed by subdivision (a) of section ten of such Act of September eighth, nineteen hundred and sixteen, as amended by this Act, there shall be levied, assessed, collected, and paid a like tax of four per centum upon the income received in the calendar year nineteen hundred and seventeen and every calendar year thereafter, by every corporation, joint-stock company or association, or insurance company, subject to the tax imposed by that subdivision of that section, except that if it has fixed its own fiscal year, the tax imposed by this section for the fiscal year ending during the calendar year nineteen hundred and seventeen shall be levied, assessed, collected, and paid only on that proportion of its income for such fiscal year which the period between January first, nineteen hundred and seventeen, and the end of such fiscal year bears to the whole of such fiscal year.

The tax imposed by this section shall be computed, levied, assessed, collected, and paid upon the same incomes and in the same manner as the tax imposed by subdivision (a) of section ten of such Act of September eighth, nineteen hundred and sixteen, as amended by this Act, except that for the purpose of the tax imposed by this section the income embraced in a return of a corporation, joint-stock company or association, or insurance company, shall be credited with the amount received as dividends upon the stock or from the net earnings of any other corporation, joint-stock company or association, or insurance company, which is taxable upon its net income as provided in this title.

Corporations paying officers or business employees salaries and wages during war period in which in service of United States may deduct amount so paid as expenses. (T. D. 2660.)

Instructions governing preparation of income tax return by farmers. (T. D. 2665.)

Proof necessary to be filed by religious, charitable, scientific, etc., organizations to establish fact that they are exempt from filing returns or paying income tax. (T. D. 2693.)

Corporation may distribute earnings for an accounting period ratably over the period for the purpose of ascertaining earnings to date of dividend payment within such period. (T. D. 2678.)

Method to be followed in crediting overpayment of 2 per cent income tax by corporation filing supplementary return for fiscal year ended on last day of some month during year 1917, or final return for period ended during such year. (T. D. 2663.)

Article 62 of Regulations relating to limited partnerships, revised. (T. D. 2711.)

Porto Rico and Philippine Islands.

SEC. 5. That the provisions of this title shall not extend to Porto Rico or the Philippine Islands, and the Porto Rican or Philippine Legislature shall have power by due enactment to amend, alter, modify, or repeal the income tax laws in force in Porto Rico or the Philippine Islands, respectively.

Alaska railroads.

AN ACT To levy and collect an income tax on railroads in Alaska, and for other purposes. Approved July 18, 1914 (38 Stat., 517).

Be it enacted, etc., That in addition to the normal income tax of one per centum on net income there shall be levied and collected one per centum on the gross annual income of all railroad corporations doing business in Alaska, on business done in Alaska, which shall be computed and collected in the manner provided in the act of Congress, approved October third, nineteen hundred and thirteen, entitled "An act to reduce tariff duties and to provide revenue for the Government, and for other purposes," the proceeds of which tax when collected shall be paid to the treasurer of Alaska and be applicable to general Territorial purposes. So much of the provisions of the act of Congress, approved March third, eighteen hundred and ninety-nine, entitled "An act to define and punish crimes in the District of Alaska, and to provide a code of criminal procedure for said district," or acts amendatory thereof as impose a license tax of \$100 per mile per annum on railroads operated in Alaska is hereby repealed, and all penalties for nonpayment thereof are hereby remitted.

TITLE II.—WAR EXCESS PROFITS TAX.

Definitions.

SEC. 200. That when used in this title—

The term "corporation" includes joint-stock companies or associations and insurance companies;

The term "domestic" means created under the law of the United States, or of any State, Territory, or District thereof, and the term "foreign" means created under the law of any other possession of the United States or of any foreign country or government.

The term "United States" means only the States, the Territories of Alaska and Hawaii, and the District of Columbia;

The term "taxable year" means the twelve months ending December thirty-first, excepting in the case of a corporation or partnership which has fixed its own fiscal year, in which case it means such fiscal year. The first taxable year shall be the year ending December thirty-first, nineteen hundred and seventeen, except that in the case of a corporation or partnership which has fixed its own fiscal year, it shall be the fiscal year ending during the calendar year nineteen hundred and seventeen. If a corporation or partnership, prior to March first, nineteen hundred and eighteen, makes a return covering its own fiscal year, and includes therein the income received during

that part of the fiscal year falling within the calendar year nineteen hundred and sixteen, the tax for such taxable year shall be that proportion of the tax computed upon the net income during such full fiscal year which the time from January first, nineteen hundred and seventeen, to the end of such fiscal year bears to the full fiscal year; and

The term "prewar period" means the calendar years nineteen hundred and eleven, nineteen hundred and twelve, and nineteen hundred and thirteen, or, if a corporation or partnership was not in existence or an individual was not engaged in a trade or business during the whole of such period, then as many of such years during the whole of which the corporation or partnership was in existence or the individual was engaged in the trade or business.

The terms "trade" and "business" include professions and occupations.

The term "net income" means in the case of a foreign corporation or partnership or a nonresident alien individual, the net income received from sources within the United States.

Revision of article 2 of Regulations regarding limited partnerships. (T. D. 2711.)

Rate of tax; exemptions.

SEC. 201. That in addition to the taxes under existing law and under this act there shall be levied, assessed, collected, and paid for each taxable year upon the income of every corporation, partnership, or individual, a tax (hereinafter in this title referred to as the tax) equal to the following percentages of the net income:

Twenty per centum of the amount of the net income in excess of the deduction (determined as hereinafter provided) and not in excess of fifteen per centum of the invested capital for the taxable year;

Twenty-five per centum of the amount of the net income in excess of fifteen per centum and not in excess of twenty per centum of such capital;

Thirty-five per centum of the amount of the net income in excess of twenty per centum and not in excess of twenty-five per centum of such capital;

Forty-five per centum of the amount of the net income in excess of twenty-five per centum and not in excess of thirty-three per centum of such capital; and

Sixty per centum of the amount of the net income in excess of thirty-three per centum of such capital.

For the purpose of this title every corporation or partnership not exempt under the provisions of this section shall be deemed to be engaged in business, and all the trades and businesses in which it is engaged shall be treated as a single trade or business, and all its income from whatever source derived shall be deemed to be received from such trade or business.

This title shall apply to all trades or businesses of whatever description, whether continuously carried on or not, except—

(a) In the case of officers and employees under the United States, or any State, Territory, or the District of Columbia, or any local subdivision thereof, the compensation or fees received by them as such officers or employees;

(b) Corporations exempt from tax under the provisions of section eleven of Title I of such Act of September eighth, nineteen hundred and sixteen, as amended by this Act, and partnerships and individuals carrying on or doing the same business, or coming within the same description; and

(c) Incomes derived from the business of life, health, and accident insurance combined in one policy issued on the weekly premium payment plan.

Treatment under this section of deductions authorized by sections 203, 204, 205, or 210. (T. D. 2602.)

Application of Articles 18, 23, and 24 of Regulations No. 41. (T. D. 2683.)

Foreign corporations or nonresident aliens.

SEC. 202. That the tax shall not be imposed in the case of the trade or business of a foreign corporation or partnership or a nonresident alien individual, the net income of which trade or business during the taxable year is less than \$3,000.

Deductions.

SEC. 203. That for the purposes of this title the deduction shall be as follows, except as otherwise in this title provided—

(a) In the case of a domestic corporation, the sum of (1) an amount equal to the same percentage of the invested capital for the taxable year which the average amount of the annual net income of the trade or business during the prewar period was of the invested capital for the prewar period (but not less than seven or more than nine per centum of the invested capital for the taxable year), and (2) \$3,000;

(b) In the case of a domestic partnership or of a citizen or resident of the United States, the sum of (1) an amount equal to the same percentage of the invested capital for the taxable year which the average amount of the annual net income of the trade or business during the prewar period was of the invested capital for the prewar period (but not less than seven or more than nine per centum of the invested capital for the taxable year), and (2) \$6,000;

(c) In the case of a foreign corporation or partnership or of a nonresident alien individual, an amount ascertained in the same manner as provided in subdivisions (a) and (b) without any exemption of \$3,000 or \$6,000.

(d) If the Secretary of the Treasury is unable satisfactorily to determine the average amount of the annual net income of the trade or business during the prewar period, the deduction shall be determined in the same manner as provided in section two hundred and five.

When return of information as to invested capital and net income for prewar period will not be required stated. (T. D. 2614.)

Application of articles 18, 23, and 24 of Regulations No. 41. (T. D. 2683.)

Deduction if not in business during prewar period.

SEC. 204. That if a corporation or partnership was not in existence, or an individual was not engaged in the trade or business, during the whole of any one calendar year during the prewar period, the deduc-

tion shall be an amount equal to eight per centum of the invested capital for the taxable year, plus in the case of a domestic corporation \$3,000, and in the case of a domestic partnership or a citizen or resident of the United States \$6,000.

A trade or business carried on by a corporation, partnership, or individual, although formally organized or reorganized on or after January second, nineteen hundred and thirteen, which is substantially a continuation of a trade or business carried on prior to that date, shall, for the purposes of this title, be deemed to have been in existence prior to that date, and the net income and invested capital of its predecessor prior to that date shall be deemed to have been its net income and invested capital.

Corporations having no net income during prewar period or percentage very low; claim for abatement.

SEC. 205. (a) That if the Secretary of the Treasury, upon complaint finds either (1) that during the prewar period a domestic corporation or partnership, or a citizen or resident of the United States, had no net income from the trade or business, or (2) that during the prewar period the percentage, which the net income was of the invested capital, was low as compared with the percentage, which the net income during such period of representative corporations, partnerships, and individuals, engaged in a like or similar trade or business, was of their invested capital, then the deduction shall be the sum of (1) an amount equal to the same percentage of its invested capital for the taxable year which the average deduction (determined in the same manner as provided in section two hundred and three, without including the \$3,000 or \$6,000 therein referred to) for such year of representative corporations, partnerships, or individuals, engaged in a like or similar trade or business, is of their average invested capital for such year plus (2) in the case of a domestic corporation \$3,000, and in the case of a domestic partnership or a citizen or resident of the United States \$6,000.

The percentage which the net income was of the invested capital in each trade or business shall be determined by the Commissioner of Internal Revenue, in accordance with regulations prescribed by him, with the approval of the Secretary of the Treasury. In the case of a corporation or partnership which has fixed its own fiscal year, the percentage determined by the calendar year ending during such fiscal year shall be used.

Application of articles 18, 23, and 24 of Regulations No. 41. (T. D. 2683.)

(b) The tax shall be assessed upon the basis of the deduction determined as provided in section two hundred and three, but the taxpayer claiming the benefit of this section may at the time of making the return file a claim for abatement of the amount by which the tax so assessed exceeds a tax computed upon the basis of the deduction determined as provided in this section. In such event, collection of the part of the tax covered by such claim for abatement shall not be made until the claim is decided, but if in the judgment of the Commissioner of Internal Revenue, the interests of the United States would be jeopardized thereby he may require the claimant to give a bond in such amount and with such sureties as the commissioner

may think wise to safeguard such interests, conditioned for the payment of any tax found to be due, with the interest thereon, and if such bond, satisfactory to the commissioner, is not given within such time as he prescribes, the full amount of tax assessed shall be collected and the amount overpaid, if any, shall upon final decision of the application be refunded as a tax erroneously or illegally collected.

Ascertaining net income.

SEC. 206. That for the purposes of this title the net income of a corporation shall be ascertained and returned (a) for the calendar years nineteen hundred and eleven and nineteen hundred and twelve upon the same basis and in the same manner as provided in section thirty-eight of the Act entitled "An Act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August fifth, nineteen hundred and nine, except that income taxes paid by it within the year imposed by the authority of the United States shall be included; (b) for the calendar year nineteen hundred and thirteen upon the same basis and in the same manner as provided in section II of the Act entitled "An Act to reduce tariff duties and to provide revenue for the Government, and for other purposes," approved October third, nineteen hundred and thirteen, except that income taxes paid by it within the year imposed by the authority of the United States shall be included, and except that the amounts received by it as dividends upon the stock or from the net earnings of other corporations, joint-stock companies or associations, or insurance companies, subject to the tax imposed by section II of such Act of October third, nineteen hundred and thirteen, shall be deducted; and (c) for the taxable year upon the same basis and in the same manner as provided in Title I of the Act entitled "An Act to increase the revenue, and for other purposes," approved September eighth, nineteen hundred and sixteen, as amended by this Act, except that the amounts received by it as dividends upon the stock or from the net earnings of other corporations, joint-stock companies or associations, or insurance companies, subject to the tax imposed by Title I of such Act of September eighth, nineteen hundred and sixteen, shall be deducted.

The net income of a partnership or individual shall be ascertained and returned for the calendar years nineteen hundred and eleven, nineteen hundred and twelve, and nineteen hundred and thirteen, and for the taxable year, upon the same basis and in the same manner as provided in Title I of such Act of September eighth, nineteen hundred and sixteen, as amended by this Act, except that the credit allowed by subdivision (b) of section five of such Act shall be deducted. There shall be allowed (a) in the case of a domestic partnership the same deductions as allowed to individuals in subdivision (a) of section five of such Act of September eighth, nineteen hundred and sixteen, as amended by this Act; and (b) in the case of a foreign partnership the same deductions as allowed to individuals in subdivision (a) of section six of such Act as amended by this Act.

Corporations paying officers and business employees salaries and wages during war period in which they are in service of United States may deduct amount paid as expenses of doing business. (T. D. 2660.)

Returns made upon basis of cost or market value, whichever is lower, accepted. (T. Ds. 2609, 2649, 2740, 2744.)

Computation of tax for period of less than full year; articles 10, 11, 12, and 20 of Regulations No. 41 supplemented. (T. D. 2689.)

Salary allowances in case of partnerships or individuals engaged in trade or business. (T. D. 2611.)

Individual partners nontaxable as to shares in partnership profits, but taxable as to salaries received from partnership. (T. D. 2612.)

Deduction allowed to partnerships for interest on bona fide loans by partners. (T. D. 2613.)

"Invested capital" defined.

SEC. 207. That as used in this title, the term "invested capital" for any year means the average invested capital for the year, as defined and limited in this title, averaged monthly.

As used in this title "invested capital" does not include stocks, bonds (other than obligations of the United States), or other assets, the income from which is not subject to the tax imposed by this title nor money or other property borrowed, and means, subject to the above limitations:

(a) In the case of a corporation or partnership: (1) Actual cash paid in, (2) the actual cash value of tangible property paid in other than cash, for stock or shares in such corporation or partnership, at the time of such payment (but in case such tangible property was paid in prior to January first, nineteen hundred and fourteen, the actual cash value of such property as of January first, nineteen hundred and fourteen, but in no case to exceed the par value of the original stock or shares specifically issued therefor), and (3) paid in or earned surplus and undivided profits used or employed in the business, exclusive of undivided profits earned during the taxable year: *Provided*, That (a) the actual cash value of patents and copyrights paid in for stock or shares in such corporation or partnership, at the time of such payment, shall be included as invested capital, but not to exceed the par value of such stock or shares at the time of such payment, and (b) the good will, trade-marks, trade brands, the franchise of a corporation or partnership, or other intangible property, shall be included as invested capital if the corporation or partnership made payment bona fide therefor specifically as such in cash or tangible property, the value of such good will, trade-mark, trade brand, franchise, or intangible property, not to exceed the actual cash or actual cash value of the tangible property paid therefor at the time of such payment; but good will, trade-marks, trade brands, franchise of a corporation or partnership, or other intangible property, bona fide purchased, prior to March third, nineteen hundred and seventeen, for and with interests or shares in a partnership or for and with shares in the capital stock of a corporation (issued prior to March third, nineteen hundred and seventeen), in an amount not to exceed, on March third, nineteen hundred and seventeen, twenty per centum of the total interests or shares in the partnership or of the total shares of the capital stock of the corporation, shall be included in invested capital at a value not to exceed the actual cash value at the time of such purchase, and in case of issue of stock therefor not to exceed the par value of such stock;

Construction of terms "tangible property" and "intangible property." (T. D. 2610.)

(b) In the case of an individual, (1) actual cash paid into the trade or business, and (2) the actual cash value of tangible property

paid into the trade or business, other than cash, at the time of such payment (but in case such tangible property was paid in prior to January first, nineteen hundred and fourteen, the actual cash value of such property as of January first, nineteen hundred and fourteen), and (3) the actual cash value of patents, copyrights, good will, trade-marks, trade brands, franchises, or other intangible property, paid into the trade or business, at the time of such payment, if payment was made therefor specifically as such in cash or tangible property, not to exceed the actual cash or actual cash value of the tangible property bona fide paid therefor at the time of such payment.

In the case of a foreign corporation or partnership or of a non-resident alien individual the term "invested capital" means that proportion of the entire invested capital, as defined and limited in this title, which the net income from sources within the United States bears to the entire net income.

For purposes of invested capital, excess profits tax deemed to have been paid out of net income for taxable year for which tax is levied. (T. D. 2791.)

Basis of computing value of property acquired in case of acquisition of stock of subsidiary company. (T. Ds. 2662, 2901.)

Reorganization, consolidation, or change of ownership.

SEC. 208. That in case of the reorganization, consolidation or change of ownership of a trade or business after March third, nineteen hundred and seventeen, if an interest or control in such trade or business of fifty per centum or more remains in control of the same persons, corporations, associations, partnerships, or any of them, then in ascertaining the invested capital of the trade or business no asset transferred or received from the prior trade or business shall be allowed a greater value than would have been allowed under this title in computing the invested capital of such prior trade or business if such asset had not been so transferred or received, unless such asset was paid for specifically as such, in cash or tangible property, and then not to exceed the actual cash or actual cash value of the tangible property paid therefor at the time of such payment.

No invested capital or only nominal capital.

SEC. 209. That in the case of a trade or business having no invested capital or not more than a nominal capital there shall be levied, assessed, collected and paid, in addition to the taxes under existing law and under this Act, in lieu of the tax imposed by section two hundred and one, a tax equivalent to eight per centum of the net income of such trade or business in excess of the following deductions: In the case of a domestic corporation \$3,000, and in the case of a domestic partnership or a citizen or resident of the United States \$6,000; in the case of all other trades or business, no deduction.

Return of information as to invested capital and net income for prewar period not required where trade or business is taxable at 8 per cent rate under this section. (T. D. 2614.)

Deduction when unable to determine invested capital.

SEC. 210. That if the Secretary of the Treasury is unable in any case satisfactorily to determine the invested capital, the amount of the deduction shall be the sum of (1) an amount equal to the same

proportion of the net income of the trade or business received during the taxable year as the proportion which the average deduction (determined in the same manner as provided in section two hundred and three, without including the \$3,000 or \$6,000 therein referred to) for the same calendar year of representative corporations, partnerships, and individuals, engaged in a like or similar trade or business, bears to the total net income of the trade or business received by such corporations, partnerships, and individuals, plus (2) in the case of a domestic corporation \$3,000, and in the case of a domestic partnership or a citizen or resident of the United States \$6,000.

For the purpose of this section the proportion between the deduction and the net income in each trade or business shall be determined by the Commissioner of Internal Revenue in accordance with regulations prescribed by him, with the approval of the Secretary of the Treasury. In the case of a corporation or partnership which has fixed its own fiscal year, the proportion determined for the calendar year ending during such fiscal year shall be used.

Article 18 of Regulations No. 41 applies only to cases in which the Secretary of the Treasury is unable satisfactorily to determine invested capital for taxable year. (T. D. 2683.)

Returns.

SEC. 211. That every foreign partnership having a net income of \$3,000 or more for the taxable year, and every domestic partnership having a net income of \$6,000 or more for the taxable year, shall render a correct return of the income of the trade or business for the taxable year, setting forth specifically the gross income for such year, and the deductions allowed in this title. Such returns shall be rendered at the same time and in the same manner as is prescribed for income-tax returns under Title I of such Act of September eighth, nineteen hundred and sixteen, as amended by this Act.

Amended returns accepted so that taxable year of affiliated corporations will coincide. (T. D. 2805.)

General provisions of law applicable.

SEC. 212. That all administrative, special, and general provisions of law, including the laws in relation to the assessment, remission, collection, and refund of internal-revenue taxes not heretofore specifically repealed, and not inconsistent with the provisions of this title are hereby extended and made applicable to all the provisions of this title and to the tax herein imposed, and all provisions of Title I of such Act of September eighth, nineteen hundred and sixteen, as amended by this Act, relating to returns and payment of the tax therein imposed, including penalties, are hereby made applicable to the tax imposed by this title.

Five per cent penalty and interest where taxpayer absent in foreign country or traveling abroad, or absent from home or place of business in military or other service of country. (T. D. 2679.)

Regulations governing inspection of returns. (T. D. 2961.)

Furnishing copies of returns. (T. D. 2962.)

Regulations.

SEC. 213. That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall make all necessary regulations for carrying out the provisions of this title, and may

require any corporation, partnership, or individual, subject to the provisions of this title, to furnish him with such facts, data, and information as in his judgment are necessary to collect the tax imposed by this title.

Repeal and amendment of former acts.

SEC. 214. That Title II (sections two hundred to two hundred and seven, inclusive) of the Act entitled "An Act to provide increased revenue to defray the expenses of the increased appropriations for the Army and Navy, and the extensions of fortifications, and for other purposes," approved March third, nineteen hundred and seventeen, is hereby repealed.

Any amount heretofore or hereafter paid on account of the tax imposed by such Title II, shall be credited toward the payment of the tax imposed by this title, and if the amount so paid exceeds the amount of such tax the excess shall be refunded as a tax erroneously or illegally collected.

Subdivision (1) of section three hundred and one of such Act of September eighth, nineteen hundred and sixteen, is hereby amended so that the rate of tax for the taxable year nineteen hundred and seventeen shall be ten per centum instead of twelve and one-half per centum, as therein provided.

Subdivision (2) of such section is hereby amended to read as follows:

"(2) This section shall cease to be of effect on and after January first, nineteen hundred and eighteen."

TITLE III.—WAR TAX ON BEVERAGES.

Distilled spirits when used as beverage or as ingredient.

SEC. 300. That on and after the passage of this Act there shall be levied and collected on all distilled spirits in bond at that time or that have been or that may be then or thereafter produced in or imported into the United States, except such distilled spirits as are subject to the tax provided in section three hundred and three, in addition to the tax now imposed by law, a tax of \$1.10 (or, if withdrawn for beverage purposes or for use in the manufacture or production of any article used or intended for use as a beverage, a tax of \$2.10) on each proof gallon, or wine gallon when below proof, and a proportionate tax at a like rate on all fractional parts of such proof or wine gallon, to be paid by the distiller or importer when withdrawn, and collected under the provisions of existing law.

That in addition to the tax under existing law there shall be levied and collected upon all perfumes hereafter imported into the United States containing distilled spirits, a tax of \$1.10 per wine gallon, and a proportionate tax at a like rate on all fractional parts of such wine gallon. Such tax shall be collected by the collector of customs and deposited as internal-revenue collections, under such rules and regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe.

Instructions relative to sale and use of distilled spirits and wines for other than beverage purposes. (T. D. 2788; modifying. T. Ds. 2559, 2576, 2593, 2699.)

Tax on distilled spirits contained in vermouth, cordials, and other compounds. (T. D. 2579.)

Drawback allowed under paragraph O of section 4 of tariff act of October 3, 1913, on domestic alcohol used in manufacture of medicinal and toilet articles to include additional tax paid on such alcohol under this act. (T. D. 2572.)

Importation of distilled spirits.

SEC. 301. That no distilled spirits produced after the passage of this Act shall be imported into the United States from any foreign country, or from the West Indian Islands recently acquired from Denmark (unless produced from products the growth of such islands, and not then into any State or Territory or District of the United States in which the manufacture or sale of intoxicating liquor is prohibited), or from Porto Rico, or the Philippine Islands. Under such rules, regulations, and bonds as the Secretary of the Treasury may prescribe, the provisions of this section shall not apply to distilled spirits imported for other than (1) beverage purposes or (2) use in the manufacture or production of any article used or intended for use as a beverage.

Alcohol produced on or after October 4, 1917, in Porto Rico may be brought into United States and withdrawn for denaturization without payment of tax under this act. (T. D. 2641.)

Removal of spirits from distilleries.

SEC. 302. That at registered distilleries producing alcohol, or other high-proof spirits, packages may be filled with such spirits reduced to not less than one hundred proof from the receiving cisterns and tax paid without being entered into bonded warehouse. Such spirits may be also transferred from the receiving cisterns at such distilleries, by means of pipe lines, direct to storage tanks in the bonded warehouse and may be warehoused in such storage tanks. Such spirits may be also transferred in tanks or tank cars to general bonded warehouses for storage therein, either in storage tanks in such warehouses or in the tanks in which they were transferred. Such spirits may also be transferred after tax payment from receiving cisterns or warehouse storage tanks to tanks or tank cars and may be transported in such tanks or tank cars to the premises of rectifiers of spirits. The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is hereby empowered to prescribe all necessary regulations relating to the drawing off, transferring, gauging, storing and transporting of such spirits; the records to be kept and returns to be made; the size and kind of packages and tanks to be used; the marking, branding, numbering and stamping of such packages and tanks; the kinds of stamps, if any, to be used; and the time and manner of paying the tax; the kind of bond and the penal sum of same. The tax prescribed by law must be paid before such spirits are removed from the distillery premises, or from general bonded warehouse in the case of spirits transferred thereto, except as otherwise provided by law.

Under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe, distilled spirits may hereafter be drawn from receiving cisterns and deposited in distillery warehouses without having affixed to the packages containing the same distillery warehouse stamps, and such packages, when so deposited in warehouse, may be withdrawn there-

from on the original gauge where the same have remained in such warehouse for a period not exceeding thirty days from the date of deposit.

Under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe, the manufacture, warehousing, withdrawal, and shipment, under the provisions of existing law, of ethyl alcohol for other than (1) beverage purposes or (2) use in the manufacture or production of any article used or intended for use as a beverage, and denatured alcohol, may be exempted from the provisions of section thirty-two hundred and eighty-three, Revised Statutes of the United States.

Under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe, manufacturers of ethyl alcohol for other than beverage purposes may be granted permission under the provisions of section thirty-two hundred and eighty-five, Revised Statutes of the United States, to fill fermenting tub in a sweet-mash distillery not oftener than once in forty-eight hours.

Regulations as to removal of tax-paid alcohol in tanks or tank cars from distilleries to premises of rectifiers. (T. D. 2790.)

Stock of distilled spirits on hand intended for sale.

SEC. 303. That upon all distilled spirits produced in or imported into the United States upon which the tax now imposed by law has been paid, and which, on the day this Act is passed, are held by a retailer in a quantity in excess of fifty gallons in the aggregate, or by any other person, corporation, partnership, or association in any quantity, and which are intended for sale, there shall be levied, assessed, collected, and paid a tax of \$1.10 (or, if intended for sale for beverage purposes or for use in the manufacture or production of any article used or intended for use as a beverage, a tax of \$2.10) on each proof gallon, and a proportionate tax at a like rate on all fractional parts of such proof gallon: *Provided*, That the tax on such distilled spirits in the custody of a court of bankruptcy in insolvency proceedings on June first, nineteen hundred and seventeen, shall be paid by the person to whom the court delivers such distilled spirits at the time of such delivery, to the extent that the amount thus delivered exceeds the fifty gallons hereinbefore provided.

Distilled spirits held by manufacturers and intended not for sale as spirits, but for manufacture of nonbeverage products, not subject to taxation under this section. (T. D. 2843.)

Additional tax on rectified spirits.

SEC. 304. That in addition to the tax now imposed or imposed by this Act on distilled spirits there shall be levied, assessed, collected, and paid a tax of 15 cents on each proof gallon and a proportionate tax at a like rate on all fractional parts of such proof gallon on all distilled spirits or wines hereafter rectified, purified, or refined in such manner, and on all mixtures hereafter produced in such manner, that the person so rectifying, purifying, refining, or mixing the same is a rectifier within the meaning of section thirty-two hundred and forty-four, Revised Statutes, as amended, and on all such articles in the possession of the rectifier on the day this Act is passed:

Provided, That this tax shall not apply to gin produced by the re-distillation of a pure spirit over juniper berries and other aromatics.

When the process of rectification is completed and the tax prescribed by this section has been paid, it shall be unlawful for the rectifier or other dealer to reduce in proof or increase in volume such spirits or wine by the addition of water or other substance; nothing herein contained shall, however, prevent a rectifier from using again in the process of rectification spirits already rectified and upon which the tax has theretofore been paid.

The tax imposed by this section shall not attach to cordials or liqueurs on which a tax is imposed and paid under the Act entitled "An Act to increase the revenue, and for other purposes," approved September eighth, nineteen hundred and sixteen, nor to the mixing and blending of wines, where such blending is for the sole purpose of perfecting such wines according to commercial standards, nor to blends made exclusively of two or more pure straight whiskies aged in wood for a period not less than four years and without the addition of coloring or flavoring matter or any other substance than pure water and if not reduced below ninety proof: *Provided*, That such blended whiskies shall be exempt from tax under this section only when compounded under the immediate supervision of a revenue officer, in such tanks and under such conditions and supervision as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe.

All distilled spirits taxable under this section shall be subject to uniform regulations concerning the use thereof in the manufacture, blending, compounding, mixing, marking, branding, and sale of whisky and rectified spirits, and no discrimination whatsoever shall be made by reason of a difference in the character of the material from which same may have been produced.

The business of a rectifier of spirits shall be carried on, and the tax on rectified spirits shall be paid, under such rules, regulations, and bonds as may be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury.

Any person violating any of the provisions of this section shall be deemed to be guilty of a misdemeanor and, upon conviction, shall be fined not more than \$1,000 or imprisoned not more than two years. He shall, in addition, be liable to double the tax evaded together with the tax, to be collected by assessment or on any bond given.

Instructions applicable to cases arising under this section. (T. D. 2506.)

Discontinuance of certain stamps authorized.

SEC. 305. That hereafter collectors of internal revenue shall not furnish wholesale liquor dealer's stamps in lieu of and in exchange for stamps for rectified spirits unless the package covered by stamp for rectified spirits is to be broken into smaller packages.

The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is authorized to discontinue the use of the following stamps whenever in his judgment the interests of the Government will be subserved thereby:

Distillery warehouse, special bonded warehouse, special bonded re-warehouse, general bonded warehouse, general bonded retransfer, transfer brandy, export tobacco, export cigars, export oleomargarine and export fermented liquor stamps.

Meters, tanks, pipes, and other apparatus at distilleries, etc.

SEC. 306. That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is hereby authorized to require at distilleries, breweries, rectifying houses, and wherever else in his judgment such action may be deemed advisable, the installation of meters, tanks, pipes, or any other apparatus for the purpose of protecting the revenue, and such meters, tanks, and pipes and all necessary labor incident thereto shall be at the expense of the person, corporation, partnership, or association on whose premises the installation is required. Any such person, corporation, partnership, or association refusing or neglecting to install such apparatus when so required by the commissioner shall not be permitted to conduct business on such premises.

Additional tax on fermented liquors.

SEC. 307. That on and after the passage of this Act there shall be levied and collected on all beer, lager beer, ale, porter, and other similar fermented liquor, containing one-half per centum or more of alcohol, brewed or manufactured and sold, or stored in warehouse, or removed for consumption or sale, within the United States, by whatever name such liquors may be called, in addition to the tax now imposed by law, a tax of \$1.50 for every barrel containing not more than thirty-one gallons, and at a like rate for any other quantity or for the fractional parts of a barrel authorized and defined by law.

Malt tonics and extracts containing more than 2 per cent of alcohol and less than 12 per cent of solids due to malt, held to be fermented malt liquors. (T. D. 2717.)

Conveyance of taxable fermented liquors to be used as distilling material.

SEC. 308. That from and after the passage of this Act taxable fermented liquors may be conveyed without payment of tax from the brewery premises where produced to a contiguous industrial distillery of either class established under the Act of October third, nineteen hundred and thirteen, to be used as distilling material, and the residue from such distillation, containing less than one-half of one per centum of alcohol by volume, which is to be used in making beverages, may be manipulated by cooling, flavoring, carbonating, settling, and filtering on the distillery premises or elsewhere.

The removal of the taxable fermented liquor from the brewery to the distillery and the operation of the distillery and removal of the residue therefrom shall be under the supervision of such officer or officers as the Commissioner of Internal Revenue shall deem proper, and the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is hereby authorized to make such regulations from time to time as may be necessary to give force and effect to this section and to safeguard the revenue.

Additional tax on wine, including vermouth.

SEC. 309. That upon all still wines, including vermouth, and upon all champagne and other sparkling wines, liqueurs, cordials, artificial or imitation wines or compounds sold as wine, produced in or imported into the United States, and hereafter removed from the

custom-house, place of manufacture, or from bonded premises for sale or consumption, there shall be levied and collected, in addition to the tax now imposed by law upon such articles, a tax equal to such tax, to be levied, collected, and paid under the provisions of existing law.

Wines in excess of 25 gallons on hand for sale.

SEC. 310. That upon all articles specified in section three hundred and nine upon which the tax now imposed by law has been paid and which are on the day this Act is passed held in excess of twenty-five gallons in the aggregate of such articles and intended for sale, there shall be levied, collected, and paid a tax equal to the tax imposed by such section.

Additional tax on grape brandy or wine spirits.

SEC. 311. That upon all grape brandy or wine spirits withdrawn by a producer of wines from any fruit distillery or special bonded warehouse under subdivision (c) of section four hundred and two of the Act entitled "An Act to increase the revenue, and for other purposes," approved September eighth, nineteen hundred and sixteen, there shall be levied, assessed, collected, and paid in addition to the tax therein imposed, a tax equal to double such tax, to be assessed, collected, and paid under the provisions of existing law.

Additional tax on grape brandy or wine spirits for fortifying purposes.

SEC. 312. That upon all sweet wines held for sale by the producer thereof upon the day this Act is passed there shall be levied, assessed, collected, and paid an additional tax equivalent to 10 cents per proof gallon upon the grape brandy or wine spirits used in the fortification of such wine, and an additional tax of 20 cents per proof gallon shall be levied, assessed, collected, and paid upon all grape brandy or wine spirits withdrawn by a producer of sweet wines for the purpose of fortifying such wines and not so used prior to the passage of this Act.

Sirups or extracts, etc., containing less than one-half of 1 per cent alcohol; natural mineral waters.

SEC. 313. That there shall be levied, assessed, collected, and paid—
(a) Upon all prepared sirups or extracts (intended for use in the manufacture or production of beverages, commonly known as soft drinks, by soda fountains, bottling establishments, and other similar places) sold by the manufacturer, producer, or importer thereof, if so sold for not more than \$1.30 per gallon, a tax of 5 cents per gallon; if so sold for more than \$1.30 and not more than \$2 per gallon, a tax of 8 cents per gallon; if so sold for more than \$2 and not more than \$3 per gallon, a tax of 10 cents per gallon; if so sold for more than \$3 and not more than \$4 per gallon, a tax of 15 cents per gallon; and if so sold for more than \$4 per gallon, a tax of 20 cents per gallon; and

(b) Upon all unfermented grape juice, soft drinks, or artificial mineral waters (not carbonated), and fermented liquors containing less than one-half per centum of alcohol, sold by the manufacturer, producer, or importer thereof, in bottles or other closed containers, and upon all ginger ale, root beer, sarsaparilla, pop, and other car-

bonated waters or beverages, manufactured and sold by the manufacturer, producer, or importer of the carbonic acid gas used in carbonating the same, a tax of 1 cent per gallon; and

(c) Upon all natural mineral waters or table waters, sold by the producer, bottler, or importer thereof, in bottles or other closed containers, at over 10 cents per gallon, a tax of 1 cent per gallon.

Where syrups or extracts are prepared in final marketable form by A, who marks or labels them only with the name or trade-mark B, who on their being delivered to him sells them without further manufacture to his own customers, if the transaction between A and B is an actual sale of the articles and not merely the employment of A by B to manufacture them as his agent at a specified profit, A is the "manufacturer" who is liable for the tax. (T. D. 2795.)

Liability of manufacturer to tax upon sales of bottled fruit juices; article 4, Regulations No. 52, amended. (T. D. 2932.)

Manufacturers, producers, importers, and vendors are liable to tax upon all sales of taxable articles made to States or political subdivisions thereof. (T. D. 2897.)

Taxability of sales in foreign commerce. (T. D. 2739.)

Returns, monthly.

SEC. 314. That each such manufacturer, producer, bottler, or imported shall make monthly returns under oath to the collector of internal revenue for the district in which is located the principal place of business, containing such information necessary for the assessment of the tax, and at such times and in such manner, as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulation prescribe.

Carbonic-acid gas in drums or other containers.

SEC. 315. That upon all carbonic-acid gas in drums or other containers (intended for use in the manufacture or production of carbonated water or other drinks) sold by the manufacturer, producer, or importer thereof, there shall be levied, assessed, collected, and paid a tax of 5 cents per pound. Such tax shall be paid by the purchaser to the vendor thereof and shall be collected, returned, and paid to the United States by such vendor in the same manner as provided in section five hundred and three.

Taxability of sales in foreign commerce. (T. D. 2739.)

TITLE IV.—WAR TAX ON CIGARS, TOBACCO, AND MANUFACTURES THEREOF.

Additional tax on cigars and cigarettes.

SEC. 400. That upon cigars and cigarettes, which shall be manufactured and sold, or removed for consumption or sale, there shall be levied and collected, in addition to the taxes now imposed by existing law, the following taxes, to be paid by the manufacturer or importer thereof: (a) on cigars of all descriptions made of tobacco, or any substitute therefor, and weighing not more than three pounds per thousand, 25 cents per thousand; (b) on cigars made of tobacco, or any substitute therefor, and weighing more than three pounds per thousand, if manufactured or imported to retail at 4 cents or more

each, and not more than 7 cents each, \$1 per thousand; (c) if manufactured or imported to retail at more than 7 cents each and not more than 15 cents each, \$3 per thousand; (d) if manufactured or imported to retail at more than 15 cents each and not more than 20 cents each, \$5 per thousand; (e) if manufactured or imported to retail at more than 20 cents each, \$7 per thousand: *Provided*, That the word "retail" as used in this section shall mean the ordinary retail price of a single cigar, and that the Commissioner of Internal Revenue may, by regulation, require the manufacturer or importer to affix to each box or container a conspicuous label indicating by letter the clause of this section under which the cigars therein contained have been tax-paid, which must correspond with the tax-paid stamp on said box or container; (f) on cigarettes made of tobacco, or any substitute therefor, made in or imported into the United States and weighing not more than three pounds per thousand, 80 cents per thousand; weighing more than three pounds per thousand, \$1.20 per thousand.

Every manufacturer of cigarettes (including small cigars weighing not more than three pounds per thousand) shall put up all the cigarettes and such small cigars that he manufactures or has manufactured for him, and sells or removes for consumption or use, in packages or parcels containing five, eight, ten, twelve, fifteen, sixteen, twenty, twenty-four, forty, fifty, eighty, or one hundred cigarettes each, and shall securely affix to each of said packages or parcels a suitable stamp denoting the tax thereon and shall properly cancel the same prior to such sale or removal for consumption or use under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe; and all cigarettes imported from a foreign country shall be packed, stamped, and the stamps canceled in a like manner, in addition to the import stamp indicating inspection of the custom-house before they are withdrawn therefrom.

Rate of tax to be paid on cigars which retail three for 10 cents. (T. D. 2645.)

Additional tax on tobacco and snuff; additional packages.

SEC. 401. That upon all tobacco and snuff hereafter manufactured and sold, or removed for consumption or use, there shall be levied and collected, in addition to the tax now imposed by law upon such articles, a tax of 5 cents per pound, to be levied, collected, and paid under the provisions of existing law.

In addition to the packages provided for under existing law, manufactured tobacco and snuff may be put up and prepared by the manufacturer for sale or consumption, in packages of the following description: Packages containing one-eighth, three-eighths, five-eighths, seven-eighths, one and one-eighth, one and three-eighths, one and five-eighths, one and seven-eighths, and five ounces.

Packages of cigarettes, tobacco, and snuff.

SEC. 402. That sections four hundred, four hundred and one, and four hundred and four, shall take effect thirty days after the passage of this Act: *Provided*, That after the passage of this Act and before the expiration of the aforesaid thirty days, cigarettes and

manufactured tobacco and snuff may be put up in the packages now provided for by law or in the packages provided for in sections four hundred and four hundred and one.

Tax on tobacco, snuff, cigars, or cigarettes removed prior to passage of act.

SEC. 403. That there shall also be levied and collected, upon all manufactured tobacco and snuff in excess of one hundred pounds or upon cigars or cigarettes in excess of one thousand, which were manufactured or imported, and removed from factory or custom-house prior to the passage of this Act, bearing tax-paid stamps affixed to such articles for the payment of the taxes thereon, and which are, on the day after this Act is passed, held and intended for sale by any person, corporation, partnership, or association, and upon all manufactured tobacco, snuff, cigars, or cigarettes, removed from factory or customs house after the passage of this Act but prior to the time when the tax imposed by section four hundred or section four hundred and one upon such articles takes effect, an additional tax equal to one-half the tax imposed by such sections upon such articles.

Cigarette paper and tubes.

SEC. 404. That there shall be levied, assessed, and collected upon cigarette paper made up into packages, books, sets, or tubes, made up in or imported into the United States and intended for use by the smoker in making cigarettes the following taxes: On each package, book, or set, containing more than twenty-five but not more than fifty papers, one-half of 1 cent; containing more than fifty but not more than one hundred papers, 1 cent; containing more than one hundred papers, 1 cent for each one hundred papers or fractional part thereof; and upon tubes, 2 cents for each one hundred tubes or fractional part thereof.

Regulations concerning payment of tax on cigarette papers and tubes.
(T. D. 2552.)

TITLE V.—WAR TAX ON FACILITIES FURNISHED BY PUBLIC UTILITIES, AND INSURANCE.

Amounts paid for transportation by rail or water.

SEC. 500. That from and after the first day of Novemoer, nineteen hundred and seventeen, there shall be levied, assessed, collected, and paid (a) a tax equivalent to three per centum of the amount paid for the transportation by rail or water or by any form of mechanical motor power when in competition with carriers by rail or water of property by freight consigned from one point in the United States to another; (b) a tax of 1 cent for each 20 cents, or fraction thereof, paid to any person, corporation, partnership, or association, engaged in the business of transporting parcels or packages by express over regular routes between fixed terminals, for the transportation of any package, parcel, or shipment by express from one point in the United States to another: *Provided*, That nothing herein contained shall be construed to require the carrier collecting such tax to list separately in any bill of lading, freight receipt, or other similar document, the

amount of the tax herein levied, if the total amount of the freight and tax be therein stated; (c) a tax equivalent to eight per centum of the amount paid for the transportation of persons by rail or water, or by any form of mechanical motor power on a regular established line when in competition with carriers by rail or water, from one point in the United States to another or to any point in Canada or Mexico, where the ticket therefor is sold or issued in the United States, not including the amount paid for commutation or season tickets for trips less than thirty miles, or for transportation the fare for which does not exceed 35 cents, and a tax equivalent to ten per centum of the amount paid for seats, berths, and staterooms in parlor cars, sleeping cars, or on vessels. If a mileage book used for such transportation or accommodation has been purchased before this section takes effect, or if cash fare be paid, the tax imposed by this section shall be collected from the person presenting the mileage book, or paying the cash fare, by the conductor or other agent, when presented for such transportation or accommodation, and the amount so collected shall be paid to the United States in such manner and at such times as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe; if a ticket (other than a mileage book) is bought and partially used before this section goes into effect it shall not be taxed, but if bought but not so used before this section takes effect, it shall not be valid for passage until the tax has been paid and such payment evidenced on the ticket in such manner as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulation prescribe; (d) a tax equivalent to five per centum of the amount paid for the transportation of oil by pipe line; (e) a tax of 5 cents upon each telegraph, telephone, or radio, dispatch, message, or conversation, which originates within the United States, and for the transmission of which a charge of 15 cents or more is imposed: *Provided*, That only one payment of such tax shall be required, notwithstanding the lines or stations of one or more persons, corporations, partnerships, or associations shall be used for the transmission of such dispatch, message, or conversation.

Amounts paid by foreign Governments for transportation and transmission services are subject to the tax imposed by this section. (T. D. 2785.)

Transportation of property by water from a port of the United States to Philippine Islands, Porto Rico, Virgin Islands, and Canal Zone is not subject to transportation tax; rail transportation of property from interior point of United States for transshipment to Philippine Islands, Porto Rico, and Virgin Islands is transportation of property "consigned from one point in the United States to another," but is exempt from internal-revenue tax by reason of special acts of Congress; such transportation of property destined to Canal Zone is not exempt. (T. D. 2795.)

"Regular established line" construed to mean a regularity of operation of transportation facilities by motor power between different points; the casual or intermittent transportation of passengers by automobile between two points would not constitute a regular established line; automobile that is merely for hire and which takes the passenger to any point he directs does not constitute a regular established line. (T. D. 2795.)

Tax on shipments or packages by express. (T. D. 2580.)

Passengers failing to pay and carriers failing to collect 8 per cent passenger tax subject themselves to penalties imposed by section 1004. (T. D. 2508.)

Where charges for transportation of property, etc., are paid by United States, State, Territory, or District of Columbia, no tax is due; if a Government bill of lading is not used, it must be shown that charges are paid as noted. (T. D. 2597.)

By whom tax shall be paid; exemption.

SEC. 501. That the taxes imposed by section five hundred shall be paid by the person, corporation, partnership, or association paying for the services or facilities rendered.

In case such carrier does not, because of its ownership of the commodity transported, or for any other reason, receive the amount which as a carrier it would otherwise charge, such carrier shall pay a tax equivalent to the tax which would be imposed upon the transportation of such commodity if the carrier received payment for such transportation: *Provided*, That in case of a carrier which on May first, nineteen hundred and seventeen, had no rates or tariffs on file with the proper Federal or State authority, the tax shall be computed on the basis of the rates or tariffs of other carriers for like services as ascertained and determined by the Commissioner of Internal Revenue: *Provided further*, That nothing in this or the preceding section shall be construed as imposing a tax (a) upon the transportation of any commodity which is necessary for the use of the carrier in the conduct of its business as such and is intended to be so used or has been so used; or (b) upon the transportation of company material transported by one carrier, which constitutes a part of a railroad system, for another carrier which is also a part of the same system.

Exemption.

SEC. 502. That no tax shall be imposed under section five hundred upon any payment received for services rendered to the United States, or any State, Territory, or the District of Columbia. The right to exemption under this section shall be evidenced in such manner as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulation prescribe.

Government bills of lading and transportation requests. (T. D. 2551.)

Exemption of telephone, telegraph, and radio messages in connection with Government business. (T. D. 2619.)

Amounts paid for transportation of freight or persons, or for transmission of messages, which are finally paid by the Government under cost-plus contract are exempt from taxes. (T. D. 2742.)

Collection of tax; returns.

SEC. 503. That each person, corporation, partnership, or association receiving any payments referred to in section five hundred shall collect the amount of the tax, if any, imposed by such section from the person, corporation, partnership, or association making such payments, and shall make monthly returns under oath, in duplicate, and pay the taxes so collected and the taxes imposed upon it under paragraph two of section five hundred and one to the collector of internal revenue of the district in which the principal office or place of business is located. Such returns shall contain such information, and be made in such manner, as the Commissioner of Internal

Revenue, with the approval of the Secretary of the Treasury, may by regulation prescribe.

Insurance policies; issuance of; exemption.

SEC. 504. That from and after the first day of November, nineteen hundred and seventeen, there shall be levied, assessed, collected, and paid the following taxes on the issuance of insurance policies:

(a) Life insurance: A tax equivalent to 8 cents on each \$100 or fractional part thereof of the amount for which any life is insured under any policy of insurance, or other instrument, by whatever name the same is called: *Provided*, That on all policies for life insurance only by which a life is insured not in excess of \$500, issued on the industrial or weekly-payment plan of insurance, the tax shall be forty per centum of the amount of the first weekly premium: *Provided further*, That policies of reinsurance shall be exempt from the tax imposed by this subdivision;

Annuit contract is not taxable as policy of life insurance. (T. D. 2785.)

Tax imposed by this section does not apply to soldiers' and sailors' insurance written by War Risk Insurance Bureau. (T. D. 2563.)

(b) Marine, inland, and fire insurance: A tax equivalent to 1 cent on each dollar or fractional part thereof of the premium charged under each policy of insurance or other instrument by whatever name the same is called whereby insurance is made or renewed upon property of any description (including rents or profits), whether against peril by sea or inland waters, or by fire or lightning, or other peril: *Provided*, That policies of reinsurance shall be exempt from the tax imposed by this subdivision;

(c) Casualty insurance: A tax equivalent to 1 cent on each dollar or fractional part thereof of the premium charged under each policy of insurance or obligation of the nature of indemnity for loss, damage, or liability (except bonds taxable under subdivision two of schedule A of Title VIII) issued or executed or renewed by any person, corporation, partnership, or association, transacting the business of employer's liability, workmen's compensation, accident, health, tornado, plate glass, steam boiler, elevator, burglary, automatic sprinkler, automobile, or other branch of insurance (except life insurance, and insurance described and taxed in the preceding subdivision): *Provided*, That policies of reinsurance shall be exempt from the tax imposed by this subdivision;

Policies of guaranty and fidelity insurance are subject to tax on indemnity and surety bonds. (T. D. 2704.)

(d) Policies issued by any person, corporation, partnership, or association, whose income is exempt from taxation under Title I of the Act entitled "An Act to increase the revenue, and for other purposes," approved September eighth, nineteen hundred and sixteen, shall be exempt from the taxes imposed by this section.

Returns, monthly, in duplicate.

SEC. 505. That every person, corporation, partnership, or association, issuing policies of insurance upon the issuance of which a tax is imposed by section five hundred and four, shall, within the first

fifteen days of each month, make a return under oath, in duplicate, and pay such tax to the collector of internal revenue of the district in which the principal office or place of business of such person, corporation, partnership, or association is located. Such returns shall contain such information and be made in such manner as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulation prescribe.

TITLE VI.—WAR EXCISE TAXES.

Articles subject to tax.

SEC. 600. That there shall be levied, assessed, collected, and paid—

(a) Upon all automobiles, automobile trucks, automobile wagons, and motorcycles, sold by the manufacturer, producer, or importer, a tax equivalent to three per centum of the price for which so sold; and

If dealer adds demountable top to tax-paid automobile or driver's cab to tax-paid truck, sale of improved vehicle is not subject to tax; dealer who contracts to sell to customer truck composed of tax-paid chassis and body to be added by body builder and who performs his contract, is liable to tax as manufacturer of the completed truck, though order to body builder purports to be that of customer through dealer as his agent; single sale by dealer of tractor and trailer bought by him together tax paid, and extra trailer, is not taxable unless combination of all three vehicles (otherwise than merely by coupling) form functioning vehicle. (T. D. 2795.)

(b) Upon all piano players, graphophones, phonographs, talking machines, and records used in connection with any musical instrument, piano player, graphophone, phonograph, or talking machine, sold by the manufacturer, producer, or importer, a tax equivalent to three per centum of the price for which so sold; and

(c) Upon all moving-picture films (which have not been exposed) sold by the manufacturer or importer a tax equivalent to one-fourth of 1 cent per linear foot; and

(d) Upon all positive moving-picture films (containing a picture ready for projection) sold or leased by the manufacturer, producer, or importer, a tax equivalent to one-half of 1 cent per linear foot; and

Tax on positive moving-picture films is to be paid only once, "when first sold or leased." (T. D. 2568.)

(e) Upon any article commonly or commercially known as jewelry, whether real or imitation, sold by the manufacturer, producer, or importer thereof, a tax equivalent to three per centum of the price for which so sold; and

On pencil made or plated with precious metal, presence of ring or loop by which pencil may be hung on chain indicates that pencil is designed for personal adornment and requires it to be classified as jewelry. (T. D. 2785.)

Retail jeweler selling articles commercially known as "jewelry" manufactured, produced, or imported by him is subject to tax, though imported, produced, or manufactured before October 3, 1917. (T. D. 2651.)

(f) Upon all tennis rackets, golf clubs, baseball bats, lacrosse sticks, balls of all kinds, including baseballs, foot balls, tennis, golf, lacrosse, billiard and pool balls, fishing rods and reels, billiard and pool tables, chess and checker boards and pieces, dice, games

and parts of games, except playing cards and children's toys and games, sold by the manufacturer, producer, or importer, a tax equivalent to three per centum of the price for which so sold; and

Bowling-alley tenpins are "parts of games," and are subject to tax. (T. D. 2795.)

Where baseball bats or other sporting goods are prepared in final marketable form by A, who marks or labels them only with name or trade-mark of B, who, on their being delivered to him, sells them without further manufacture to his own customers, if transaction between A and B is actual sale of the articles and not merely employment of A by B to manufacture them as his agent at a specified profit, A is the "manufacturer" who is liable for the tax. (T. D. 2795.)

(g) Upon all perfumes, essences, extracts, toilet waters, cosmetics, petroleum jellies, hair oils, pomades, hair dressings, hair restoratives, hair dyes, tooth and mouth washes, dentifrices, tooth pastes, aromatic cachous, toilet soaps and powders, or any similar substance, article, or preparation by whatsoever name known or distinguished, upon all of the above which are used or applied or intended to be used or applied for toilet purposes, and which are sold by the manufacturer, importer, or producer, a tax equivalent to two per centum of the price for which so sold; and

Soap powder chiefly designed for laundry purposes and sold by manufacturer in bulk to laundries and also sold for retail distribution to public in packages bearing directions for use as hair shampoo, for which it is to small extent actually used, is subject to excise tax upon sales in packages but not upon sales in bulk. (T. D. 2785.)

Persons liable for payment of tax imposed by this paragraph. (T. D. 2638.)

(h) Upon all pills, tablets, powders, tinctures, troches or lozenges, sirups, medicinal cordials or bitters, anodynes, tonics, plasters, liniments, salves, ointments, pastes, drops, waters (except those taxed under section three hundred and thirteen of this Act), essences, spirits, oils, and all medicinal preparations, compounds, or compositions whatsoever, the manufacturer or producer of which claims to have any private formula, secret, or occult art for making or preparing the same, or has or claims to have any exclusive right or title to the making or preparing the same, or which are prepared, uttered, vended, or exposed for sale under any letters patent, or trade-mark, or which, if prepared by any formula, published or unpublished, are held out or recommended to the public by the makers, venders, or proprietors thereof as proprietary medicines or medicinal proprietary articles or preparations, or as remedies or specifics for any disease, diseases, or affection whatever affecting the human or animal body, and which are sold by the manufacturer, producer, or importer, a tax equivalent to two per centum of the price for which so sold; and

(1) Coined name used for particular medicinal preparation, to distinguish it from same or like preparations of other manufacturers (a) is a "trade-mark"; (b) amounts to a holding out of that preparation as proprietary. (2) Autographic name of the manufacturer or medicinal preparation printed across middle of label (a) is not a "trade-mark"; (b) does not amount to a holding out of that preparation as proprietary. (3) Name, initials, or monogram of manufacturer printed on label of medicinal preparation, so as to be practically part of name of preparation (a) is not of itself a "trade-mark"; (b) amounts to a holding out of that preparation as proprietary. (4) Medicinal preparation held out or recommended as proprietary or as remedy or specific for disease is

taxable (a) even if sold, in ~~first instance~~, only to physicians and druggists; (b) even if a "bacterin"; and (c) even if an uncompounded natural substance merely dried or refined. (T. D. 2785.)

Persons liable for payment of tax imposed by this paragraph. (T. D. 2638.)

(i) Upon all chewing gum or substitute therefor sold by the manufacturer, producer, or importer, a tax equivalent to two per centum of the price for which so sold; and

(j) Upon all cameras sold by the manufacturer, producer, or importer, a tax equivalent to three per centum of the price for which so sold.

Manufacturers, producers, and importers are subject to tax upon all sales of taxable articles made to States or political subdivisions thereof, except where specifically exempt, as under subdivision (10) of section 900 of the revenue act of 1918. (T. D. 2897.)

Taxes do not apply to articles sold in foreign commerce or by any of certain methods by a manufacturer, producer, or importer located in one of the several States of the United States. (T. D. 2739.)

Article V, Regulations No. 44, as to sales by agents, amended. (T. D. 2906.)

Returns, monthly.

Sec. 601. That each manufacturer, producer, or importer of any of the articles enumerated in section six hundred shall make monthly returns under oath in duplicate and pay the taxes imposed on such articles by this title to the collector of internal revenue for the district in which is located the principal place of business. Such returns shall contain such information and be made at such times and in such manner as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may by regulations prescribe.

Articles on hand at passage of the act.

Sec. 602. That upon all articles enumerated in subdivisions (a), (b), (c), (f), (g), (h), (i), or (j) of section six hundred, which on the day this Act is passed are held and intended for sale by any person, corporation, partnership, or association, other than (1) a retailer who is not also a wholesaler, or (2) the manufacturer, producer, or importer thereof, there shall be levied, assessed, collected, and paid a tax equivalent to one-half the tax imposed by each such subdivision upon the sale of the articles therein enumerated. This tax shall be paid by the person, corporation, partnership, or association so holding such articles.

The taxes imposed by this section shall be assessed, collected, and paid in the same manner as provided in section ten hundred and two in the case of additional taxes upon articles upon which the tax imposed by existing law has been paid.

Nothing in this section shall be construed to impose a tax upon articles sold and delivered prior to May ninth, nineteen hundred and seventeen, where the title is reserved in the vendor as security for the payment of the purchase money.

The "passing on" to the purchaser of the excise tax on sales is not collection of tax for Government, but a private transaction between manufacturer and purchaser. The department can not undertake to advise the manufacturer as to method of securing his reimbursement; only interest of the Government is that amount of tax should not be misrepresented to purchaser. (T. D. 2785.)

Boats and yachts.

SEC. 603. That on the day this Act takes effect, and thereafter on July first in each year, and also at the time of the original purchase of a new boat by a user, if on any other date than July first, there shall be levied, assessed, collected, and paid upon the use of yachts, pleasure boats, power boats, and sailing boats, of over five net tons, and motor boats with fixed engines, not used exclusively for trade or national defense, or not built according to plans and specifications approved by the Navy Department, an excise tax to be based on each yacht or boat, at rates as follows: Yachts, pleasure boats, power boats, motor boats with fixed engines, and sailing boats, of over five net tons, length not over fifty feet, 50 cents for each foot, length over fifty feet and not over one hundred feet, \$1 for each foot, length over one hundred feet, \$2 for each foot; motor boats of not over five net tons with fixed engines, \$5.

In determining the length of such yachts, pleasure boats, power boats, motor boats with fixed engines, and sailing boats, the measurement of over-all length shall govern.

In the case of a tax imposed at the time of the original purchase of a new boat on any other date than July first, the amount to be paid shall be the same number of twelfths of the amount of the tax as the number of calendar months, including the month of sale, remaining prior to the following July first.

Motor boat operated solely in taking out fishing parties for hire is subject to tax, although it is licensed in the coasting trade and transportation tax is collected from passengers. (T. D. 2795.)

Motor boats operated by a company engaged in business of taking parties on trips to enjoy the trip and the scenery are not used exclusively for trade, and their use is subject to tax on boats. (T. D. 2785.)

Affidavit containing itemized list of articles sold in foreign commerce upon which tax has been paid, giving names of consignees, destination, amount of tax, month in which paid, and statement that goods were actually delivered to consignees named in foreign country, etc., and that affiant has received advices to this effect, may be accepted as satisfactory evidence in support of claim for recovery of taxes paid under this title in cases where, because of number of shipments and small amount of tax involved in each, it is impracticable to furnish copies of invoices covering goods sold, ships' receipts, or copies of through bills of lading. (T. D. 2785.)

Synopsis decision relating to tax on boats; meaning of term "for trade." (T. D. 2753.)

TITLE VII.—WAR TAX ON ADMISSIONS AND DUES.

Exemption and definition.

SEC. 700. That from and after the first day of November, nineteen hundred and seventeen, there shall be levied, assessed, collected, and paid (a) a tax of 1 cent for each 10 cents or fraction thereof of the amount paid for admission to any place, including admission by season ticket or subscription, to be paid by the person paying for such admission: *Provided*, That the tax on admission of children under twelve years of age where an admission charge for such children is made shall in every case be 1 cent; and (b) in the case of persons (except bona fide employees, municipal officers on official business,

and children under twelve years of age) admitted free to any place at a time when and under circumstances under which an admission charge is made to other persons of the same class, a tax of 1 cent for each 10 cents or fraction thereof of the price so charged to such other persons for the same or similar accommodations, to be paid by the person so admitted; and (c) a tax of 1 cent for each 10 cents or fraction thereof paid for admission to any public performance for profit at any cabaret or other similar entertainment to which the charge for admission is wholly or in part included in the price paid for refreshment, service, or merchandise; the amount paid for such admission to be computed under rules prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, such tax to be paid by the person paying for such refreshment, service, or merchandise. In the case of persons having the permanent use of boxes or seats in an opera house or any place of amusement or a lease for the use of such box or seat in such opera house or place of amusement there shall be levied, assessed, collected, and paid a tax equivalent to ten per centum of the amount for which a similar box or seat is sold for performance or exhibition at which the box or seat is used or reserved by or for the lessee or holder. These taxes shall not be imposed in the case of a place the maximum charge for admission to which is 5 cents, or in the case of shows, rides, and other amusements, (the maximum charge for admission to which is 10 cents) within outdoor general amusement parks, or in the case of admissions to such parks.

No tax shall be levied under this title in respect to any admissions all the proceeds of which inure exclusively to the benefit of religious, educational, or charitable institutions, societies, or organizations, or admissions to agricultural fairs none of the profits of which are distributed to stockholders or members of the association conducting the same.

The term "admission" as used in this title includes seats and tables, reserved or otherwise, and other similar accommodations, and the charges made therefor.

Tax due on amount paid for admission to performance occurring and dues for membership period elapsing after October 31, 1917, regardless of date of payment. (T. D. 2605.)

Method of computing amounts to be collected in case of admissions to cabarets, etc.; definition of "cabaret or other similar entertainment." (T. D. 2603.)

Payment for share of stock in social, athletic, or sporting club required as condition of becoming member will be regarded as an initiation fee. (T. D. 2646.)

Liability to tax in cases of complimentary tickets, theater tickets sold through an agency, and amounts charged by Y. M. C. A. and Y. M. H. A. for admissions and dues. (T. D. 2592.)

Membership fees or dues; exemptions.

SEC. 701. That from and after the first day of November, nineteen hundred and seventeen, there shall be levied, assessed, collected, and paid, a tax equivalent to ten per centum of any amount paid as dues or membership fees (including initiation fees), to any social, athletic, or sporting club or organization, where such dues or fees are in excess of \$12 per year; such taxes to be paid by the person paying such dues or fees: *Provided*, That there shall be exempted from the provi-

sions of this section all amounts paid as dues or fees to a fraternal beneficiary society, order, or association, operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and providing for the payment of life, sick, accident, or other benefits to the members of such society, order, or association or their dependents.

The rule of T. D. 2646 that share of stock required as condition of becoming member of club is regarded as "initiation fee" held to apply to club organized as business corporation and having stockholders who are not members; dues taxable include sum paid by member in addition to regular dues to obtain privileges on club grounds for members of his family. (T. D. 2795.)

Dues paid for membership privileges in chamber of commerce or other primarily commercial organization are taxable if privileges include clubhouse facilities such as are afforded by ordinary city social club; commercial club conducted primarily for commercial objects held not within rule for special reason that chief social feature, that of restaurant, besides being maintained as adjunct to luncheon meetings is regularly open to members, local business, and civic organizations and used by them for purposes which the club is engaged in furthering. (T. D. 2795.)

Tax due on amount paid for admission to performance occurring and dues for membership period elapsing after October 31, 1917, regardless of date of payment. (T. D. 2805.)

Dues paid by members of chambers of commerce are exempt from tax. (T. D. 2828.)

How and from whom tax collected.

SEC. 702. That every person, corporation, partnership, or association (a) receiving any payments for such admission, dues, or fees, shall collect the amount of the tax imposed by section seven hundred or seven hundred and one from the person making such payments, or (b) admitting any person free to any place for admission to which a charge is made shall collect the amount of the tax imposed by section seven hundred from the person so admitted, and (c) in either case shall make returns and payments of the amount so collected, at the same time and in the same manner as provided in section five hundred and three of this Act.

TITLE VIII.—WAR STAMP TAXES.

On and after December 1, 1917.

SEC. 800. That on and after the first day of December, nineteen hundred and seventeen, there shall be levied, collected, and paid, for and in respect of the several bonds, debentures, or certificates of stock and of indebtedness, and other documents, instruments, matters, and things mentioned and described in Schedule A of this title, or for or in respect of the vellum, parchment, or paper upon which such instruments, matters, or things, or any of them, are written or printed, by any person, corporation, partnership, or association who makes, signs, issues, sells, removes, consigns, or ships the same, or for whose use or benefit the same are made, signed, issued, sold, removed, consigned, or shipped, the several taxes specified in such schedule.

Loan of stock for purposes of sale and return of such stock subject to transfer tax imposed by this section. (T. D. 2835.)

Exemptions.

SEC. 801. That there shall not be taxed under this title any bond, note, or other instrument, issued by the United States, or by any foreign Government, or by any State, Territory or the District of Columbia, or local subdivision thereof, or municipal or other corporation exercising the taxing power, when issued in the exercise of a strictly governmental, taxing, or municipal function; or stocks and bonds issued by cooperative building and loan associations which are organized and operated exclusively for the benefit of their members and make loans only to their shareholders, or by mutual ditch or irrigating companies.

Bonds given by officials of State, township, county or village for faithful performance of duties are not subject to stamp tax. (T. D. 2624.)

Penalty for violation.

SEC. 802. That whoever—

(a) Makes, signs, issues, or accepts, or causes to be made, signed, issued, or accepted, any instrument, document, or paper of any kind or description whatsoever without the full amount of tax thereon being duly paid;

Failure to stamp promissory notes subject to stamp tax under subdivision 6, Schedule A, renders maker and acceptor of such notes separately liable under this section. (T. D. 2795.)

(b) Consigns or ships, or causes to be consigned or shipped, by parcel post any parcel, package, or article without the full amount of tax being duly paid;

(c) Manufactures or imports and sells, or offers for sale, or causes to be manufactured or imported and sold, or offered for sale, any playing cards, package, or other article without the full amount of tax being duly paid;

(d) Makes use of any adhesive stamp to denote any tax imposed by this title without canceling or obliterating such stamp as prescribed in section eight hundred and four;

Is guilty of a misdemeanor and upon conviction thereof shall pay a fine of not more than \$100 for each offense.

Mutilation, fraudulent use of, removal, unlawful possession of stamps; penalty.

SEC. 803. That whoever—

(a) Fraudulently cuts, tears, or removes from any vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title, any adhesive stamp or the impression of any stamp, die, plate, or other article provided, made, or used in pursuance of this title;

(b) Fraudulently uses, joins, fixes, or places to, with, or upon any vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title, (1) any adhesive stamp, or the impression of any stamp, die, plate, or other article, which has been cut, torn, or removed from any other vellum, parchment, paper, instrument, writing, package, or article, upon which any tax is imposed by this title; or (2) any adhesive stamp or the impression of any stamp, die, plate, or other article of insufficient value; or (3) any

forged or counterfeit stamp, or the impression of any forged or counterfeit stamp, die, plate, or other article;

(c) Willfully removes, or alters the cancellation, or defacing marks of, or otherwise prepares, any adhesive stamp, with intent to use, or cause the same to be used, after it has been already used, or knowingly or willfully buys, sells, offers for sale, or gives away, any such washed or restored stamp to any person for use, or knowingly uses the same;

(d) Knowingly and without lawful excuse (the burden of proof of such excuse being on the accused) has in possession any washed, restored, or altered stamp, which has been removed from any vellum, parchment, paper, instrument, writing, package, or article, is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$1,000, or by imprisonment for not more than five years, or both, in the discretion of the court, and any such reused, canceled, or counterfeit stamp and the vellum, parchment, document, paper, package, or article upon which it is placed or impressed shall be forfeited to the United States.

Cancellation of stamps.

SEC. 804. That whenever an adhesive stamp is used for denoting any tax imposed by this title, except as hereinafter provided, the person, corporation, partnership, or association, using or affixing the same shall write or stamp or cause to be written or stamped thereupon the initials of his or its name and the date upon which the same is attached or used, so that the same may not again be used: *Provided*, That the Commissioner of Internal Revenue may prescribe such other method for the cancellation of such stamps as he may deem expedient.

Stamps, preparation; contract; extension of laws relative to assessment and collection of tax.

SEC. 805. (a) That the Commissioner of Internal Revenue shall cause to be prepared and distributed for the payment of the taxes prescribed in this title suitable stamps denoting the tax on the document, articles, or thing to which the same may be affixed, and shall prescribe such method for the affixing of said stamps in substitution for or in addition to the method provided in this title, as he may deem expedient.

(b) The Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is authorized to procure any of the stamps provided for in this title by contract whenever such stamps can not be speedily prepared by the Bureau of Engraving and Printing; but this authority shall expire on the first day of January, nineteen hundred and eighteen, except as to imprinted stamps furnished under contract, authorized by the Commissioner of Internal Revenue.

(c) All internal-revenue laws relating to the assessment and collection of taxes are hereby extended to and made a part of this title, so far as applicable, for the purpose of collecting stamp taxes omitted through mistake or fraud from any instrument, document, paper, writing, parcel, package, or article named herein.

Postmaster General to be furnished stamps.

SEC. 806. That the Commissioner of Internal Revenue shall furnish to the Postmaster General without prepayment a suitable quantity of adhesive stamps to be distributed to and kept on sale by the various postmasters in the United States. The Postmaster General may require each such postmaster to give additional or increased bond as postmaster for the value of the stamps so furnished, and each such postmaster shall deposit the receipts from the sale of such stamps to the credit of and render accounts to the Postmaster General at such times and in such form as he may by regulations prescribe. The Postmaster General shall at least once monthly transfer all collections from this source to the Treasury as internal-revenue collections.

Assistant treasurers to be furnished stamps; Schedule A.

SEC. 807. That the collectors of the several districts shall furnish without prepayment to any assistant treasurer or designated depository of the United States located in their respective collection districts a suitable quantity of adhesive stamps for sale. In such cases the collector may require a bond, with sufficient sureties, to an amount equal to the value of the adhesive stamps so furnished, conditioned for the faithful return, whenever so required, of all quantities or amounts undisposed of, and for the payment monthly of all quantities or amounts sold or not remaining on hand. The Secretary of the Treasury may from time to time make such regulations as he may find necessary to insure the safe-keeping or prevent the illegal use of all such adhesive stamps.

SCHEDULE A.—STAMP TAXES.

1. Bonds of indebtedness: Bonds, debentures, or certificates of indebtedness issued on and after the first day of December, nineteen hundred and seventeen, by any person, corporation, partnership, or association, on each \$100 of face value or fraction thereof, 5 cents: *Provided*, That every renewal of the foregoing shall be taxed as a new issue: *Provided further*, That when a bond conditioned for the repayment or payment of money is given in a penal sum greater than the debt secured, the tax shall be based upon the amount secured.

2. Bonds, indemnity and surety: Bonds for indemnifying any person, corporation, partnership, or corporation who shall have become bound or engaged as surety, and all bonds for the due execution or performance of any contract, obligation, or requirement, or the duties of any office or position, and to account for money received by virtue thereof, and all other bonds of any description, except such as may be required in legal proceedings, not otherwise provided for in this schedule, 50 cents: *Provided*, That where a premium is charged for the execution of such bond the tax shall be paid at the rate of one per centum on each dollar or fractional part thereof of the premium charged: *Provided further*, That policies of reinsurance shall be exempt from the tax imposed by this subdivision.

Stamp tax imposed on indemnity and surety bonds applies to indemnity bonds made to Government to secure issuance of duplicate checks for allotment and allowance or other benefits under act of October 3, 1917. (T. D. 2795.)

Classification of bonds of indebtedness and promissory notes for purpose of stamp tax. (T. D. 2713.)

Policies of guaranty and fidelity insurance are subject to tax on indemnity and surety bonds. (T. D. 2704.)

Qualifying bonds given by trustees in bankruptcy are not taxable. (T. D. 2647.)

3. Capital stock, issue: On each original issue, whether on organization or reorganization, of certificates of stock by any association, company, or corporation, on each \$100 of face value or fraction thereof, 5 cents: *Provided*, That where capital stock is issued without face value, the tax shall be 5 cents per share, unless the actual value is in excess of \$100 per share, in which case the tax shall be 5 cents on each \$100 of actual value or fraction thereof.

The stamps representing the tax imposed by this subdivision shall be attached to the stock books and not to the certificates issued.

Synopsis decision relative to taxable issues and transfers of stock. (T. D. 2752.)

4. Capital stock, sales or transfers: On all sales, or agreements to sell, or memoranda of sales or deliveries of, or transfers of legal title to shares or certificates of stock in any association, company, or corporation, whether made upon or shown by the books of the association, company, or corporation, or by any assignment in blank, or by any delivery, or by any paper or agreement or memorandum or other evidence of transfer or sale, whether entitling the holder in any manner to the benefit of such stock or not, on each \$100 of face value or fraction thereof, 2 cents, and where such shares of stock are without par value, the tax shall be 2 cents on the transfer or sale or agreement to sell on each share, unless the actual value thereof is in excess of \$100 per share, in which case the tax shall be 2 cents on each \$100 of actual value or fraction thereof: *Provided*, That it is not intended by this title to impose a tax upon an agreement evidencing a deposit of stock certificates as collateral security for money loaned thereon, which stock certificates are not actually sold, nor upon such stock certificates so deposited: *Provided further*, That the tax shall not be imposed upon deliveries or transfers to a broker for sale, nor upon deliveries or transfers by a broker to a customer for whom and upon whose order he has purchased same, but such deliveries or transfers shall be accompanied by a certificate setting forth the facts: *Provided further*, That in case of sale where the evidence of transfer is shown only by the books of the company the stamp shall be placed upon such books; and where the change of ownership is by transfer of the certificate the stamp shall be placed upon the certificate; and in cases of an agreement to sell or where the transfer is by delivery of the certificate assigned in blank there shall be made and delivered by the seller to the buyer a bill or memorandum of such sale, to which the stamp shall be affixed; and every bill or memorandum of sale or agreement to sell before mentioned shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers. Any person or persons liable to pay the tax as herein provided, or anyone who acts in the matter as agent or broker for such person or persons who shall make any such sale, or who shall in pursuance of any such sale deliver any stock or evidence of the sale of any stock or bill or memorandum thereof, as herein required, without having the proper stamps affixed

thereto with intent to evade the foregoing provisions shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding \$1,000, or be imprisoned not more than six months, or both, at the discretion of the court.

A so-called business property investment bond, wherein it is certified that holder is owner of interest in certain specified real property, legal title to which was previously conveyed to trustee, and whereby corporation issuing same agrees to manage property and distribute proceeds in certain amount, is not subject to tax as certificate of stock. (T. D. 2795.)

Loan of stock for purposes of sale and return of such stock subject to transfer tax imposed by this section. (T. D. 2685.)

Synopsis decision relative to taxable issues and transfers of stock. (T. D. 2752.)

Taxability of deeds and stock transfers to and by Allen Property Custodian. (T. D. 2786.)

5. Produce, sales of, on exchange: Upon each sale, agreement of sale, or agreement to sell, including so-called transferred or scratch sales, any products or merchandise at any exchange, or board of trade, or other similar place, for future delivery, for each \$100 in value of the merchandise covered by said sale or agreement of sale or agreement to sell, 2 cents, and for each additional \$100 or fractional part thereof in excess of \$100, 2 cents: *Provided*, That on every sale or agreement of sale or agreement to sell as aforesaid there shall be made and delivered by the seller to the buyer a bill, memorandum, agreement, or other evidence of such sale, agreement of sale, or agreement to sell, to which there shall be affixed a lawful stamp or stamps in value equal to the amount of the tax on such sale: *Provided further*, That sellers of commodities described herein, having paid the tax provided by this subdivision, may transfer such contracts to a clearing house corporation or association, and such transfer shall not be deemed to be a sale, or agreement of sale, or an agreement to sell within the provisions of this Act, provided that such transfer shall not vest any beneficial interest in such clearing house association but shall be made for the sole purpose of enabling such clearing house association to adjust and balance the accounts of the members of said clearing house association on their several contracts. And every such bill, memorandum, or other evidence of sale or agreement to sell shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers; and any person or persons liable to pay the tax as herein provided, or anyone who acts in the matter as agent or broker for such person or persons, who shall make any such sale or agreement of sale, or agreement to sell, or who shall, in pursuance of any such sale, agreement of sale, or agreement to sell, deliver any such products or merchandise without a bill, memorandum, or other evidence thereof as herein required, or who shall deliver such bill, memorandum, or other evidence of sale, or agreement to sell, without having the proper stamps affixed thereto, with intent to evade the foregoing provisions, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding \$1,000, or be imprisoned not more than six months, or both, at the discretion of the court.

That no bill, memorandum, agreement, or other evidence of such sale, or agreement of sale, or agreement to sell, in case of cash sales

of products or merchandise for immediate or prompt delivery which in good faith are actually intended to be delivered shall be subject to this tax.

Sales of produce or merchandise for future delivery must be made at an exchange or board of trade or other similar place in order for tax to apply; sale by member of exchange made by mail or wire not at exchange is not subject to the tax. (T. D. 2795.)

6. Drafts or checks payable otherwise than at sight or on demand, promissory notes, except bank notes issued for circulation, and for each renewal of the same, for a sum not exceeding \$100, 2 cents; and for each additional \$100 or fractional part thereof, 2 cents.*

The general rule that time drafts are subject to stamp tax when delivered within territorial jurisdiction of the United States, and not otherwise, is applicable to time drafts used between territorial jurisdiction of the United States (including the States, District of Columbia, Territory of Hawaii, and Territory of Alaska), and the Canal Zone, Philippine Islands, Virgin Islands, or Porto Rico, whether covering shipments or not. (T. D. 2795.)

Classification of promissory notes for purpose of stamp tax. (T. D. 2713.)

Tax attaches upon delivery within United States to drafts and checks expressed to be payable otherwise than at sight or on demand. (T. D. 2682.)

7. Conveyance: Deed, instrument, or writing, whereby any lands, tenements, or other realty sold shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his, her, or their direction, when the consideration or value of the interest or property conveyed, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, exceeds \$100 and does not exceed \$500, 50 cents; and for each additional \$500 or fractional part thereof 50 cents: *Provided*, That nothing contained in this paragraph shall be so construed as to impose a tax upon any instrument or writing given to secure a debt.

Taxability of deeds and stock transfers to and by Alien Property Custodian. (T. D. 2786.)

8. Entry of any goods, wares, or merchandise at any custom-house, either for consumption or warehousing, not exceeding \$100 in value, 25 cents; exceeding \$100 and not exceeding \$500 in value, 50 cents; exceeding \$500 in value, \$1.

9. Entry for the withdrawal of any goods or merchandise from customs bonded warehouse, 50 cents.

10. Passage ticket, one way or round trip, for each passenger, sold or issued in the United States for passage by any vessel to a port or place not in the United States, Canada, or Mexico, if costing not exceeding \$30, \$1; costing more than \$30 and not exceeding \$60, \$3; costing more than \$60, \$5: *Provided*, That such passage tickets, costing \$10 or less, shall be exempt from taxation.

Passage tickets sold in United States from Hongkong to Vancouver, not sold as part of round trip or through ticket from port in United States, Canada, or Mexico, are not subject to the stamp tax. (T. D. 2795.)

11. Proxy for voting at any election for officers, or meeting for the transaction of business, of any incorporated company or association,

except religious, educational, charitable, fraternal, or literary societies, or public cemeteries, 10 cents.

12. Power of attorney granting authority to do or perform some act for or in behalf of the grantor, which authority is not otherwise vested in the grantee, 25 cents: *Provided*, That no stamps shall be required upon any papers necessary to be used for the collection of claims from the United States or from any State for pensions, back pay, bounty, or for property lost in the military or naval service or upon powers of attorney required in bankruptcy cases.

13. Playing cards: Upon every pack of playing cards containing not more than fifty-four cards, manufactured or imported, and sold, or removed for consumption or sale, after the passage of this Act, a tax of 5 cents per pack in addition to the tax imposed under existing law.

14. Parcel-post packages: Upon every parcel or package transported from one point in the United States to another by parcel post on which the postage amounts to 25 cents or more, a tax of 1 cent for each 25 cents or fractional part thereof charged for such transportation, to be paid by the consignor.

No such parcel or package shall be transported until a stamp or stamps representing the tax due shall have been affixed thereto.

TITLE IX.—WAR ESTATE TAX.

Additional tax.

SEC. 900. That in addition to the tax imposed by section two hundred and one of the Act entitled "An Act to increase the revenue, and for other purposes," approved September eighth, nineteen hundred and sixteen, as amended —

(a) A tax equal to the following percentages of its value is hereby imposed upon the transfer of each net estate of every decedent dying after the passage of this Act, the transfer of which is taxable under such section (the value of such net estate to be determined as provided in Title II of such Act of September eighth, nineteen hundred and sixteen):

One-half of one per centum of the amount of such net estate not in excess of \$50,000;

One per centum of the amount by which such net estate exceeds \$50,000 and does not exceed \$150,000;

One and one-half per centum of the amount by which such net estate exceeds \$150,000 and does not exceed \$250,000;

Two per centum of the amount by which such net estate exceeds \$250,000 and does not exceed \$450,000;

Two and one-half per centum of the amount by which such net estate exceeds \$450,000 and does not exceed \$1,000,000;

Three per centum of the amount by which such net estate exceeds \$1,000,000 and does not exceed \$2,000,000;

Three and one-half per centum of the amount by which such net estate exceeds \$2,000,000 and does not exceed \$3,000,000;

Four per centum of the amount by which such net estate exceeds \$3,000,000 and does not exceed \$4,000,000;

Four and one-half per centum of the amount by which such net estate exceeds \$4,000,000 and does not exceed \$5,000,000;

Five per centum of the amount by which such net estate exceeds \$5,000,000 and does not exceed \$8,000,000;

Seven per centum of the amount by which such net estate exceeds \$8,000,000 and does not exceed \$10,000,000; and

Ten per centum of the amount by which such net estate exceeds \$10,000,000.

Exemption during war.

SEC. 901. That the tax imposed by this title shall not apply to the transfer of the net estate of any decedent dying while serving in the military or naval forces of the United States, during the continuance of the war in which the United States is now engaged, or if death results from injuries received or disease contracted in such service, within one year after the termination of such war. For the purposes of this section the termination of the war shall be evidenced by the proclamation of the President.

Acceptance of Liberty bonds in payment of tax.

SEC. 6. [*Act of April 4, 1918 (40 Stat., 503, 505), amending act of September 24, 1917 (40 Stat., 288).*] That any bonds of the United States bearing interest at a higher rate than four per centum per annum (whether issued under section one of this Act or upon conversion of bonds issued under this Act or under said Act approved April twenty-fourth, nineteen hundred and seventeen), which have been owned by any person continuously for at least six months prior to the date of his death, and which upon such date constitute part of his estate, shall, under rules and regulations prescribed by the Secretary of the Treasury, be receivable by the United States at par and accrued interest in payment of any estate or inheritance taxes imposed by the United States, under or by virtue of any present or future law upon such estate or the inheritance thereof.

United States bonds bearing interest at a higher rate than 4 per cent to be accepted at par and accrued interest in payment of estate tax. (T. D. 2705.)

Regulations relating to receipt of Liberty bonds in payment of estate taxes. (T. D. 2802.)

TITLE X.—ADMINISTRATIVE PROVISIONS.

West Indian Islands acquired from Denmark, articles to and from.

SEC. 1000. That there shall be levied, collected, and paid in the United States, upon articles coming into the United States from the West Indian Islands acquired from Denmark, a tax equal to the internal-revenue tax imposed in the United States upon like articles of domestic manufacture; such articles shipped from said islands to the United States shall be exempt from the payment of any tax imposed by the internal-revenue laws of said islands: *Provided*, That there shall be levied, collected, and paid in said islands, upon articles imported from the United States, a tax equal to the internal-revenue tax imposed in said islands upon like articles there manufactured; and such articles going into said islands from the United States shall be exempt from payment of any tax imposed by the internal-revenue laws of the United States.

Extension of administrative provisions of law.

SEC. 1001. That all administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, are hereby extended to and made a part of this Act, and every person, corporation, partnership, or association liable to any tax imposed by this Act, or for the collection thereof, shall keep such records and render, under oath, such statements and returns, and shall comply with such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may from time to time prescribe.

Returns where additional taxes are imposed; payment extended.

SEC. 1002. That where additional taxes are imposed by this Act upon articles or commodities, upon which the tax imposed by existing law has been paid, the person, corporation, partnership, or association required by this Act to pay the tax shall, within thirty days after its passage, make return under oath in such form and under such regulations as the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury shall prescribe. Payment of the tax shown to be due may be extended to a date not exceeding seven months from the passage of this Act, upon the filing of a bond for payment in such form and amount and with such sureties as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe.

Bond for extending payment of certain taxes. (T. D. 2557.)

Liberty bonds of the United States may be deposited as security for the payment of floor taxes due in lieu of surety bonds. (T. D. 2537; T. D. 2554; T. D. 2574.)

Date when floor taxes become due after notice of assessment by collector; 5 per cent penalty and interest accrued if not paid on or before due date fixed in bond or within ten days after notice and demand in cases where bond has not been given. (T. D. 2648.)

Collection of tax; applicability of provisions.

SEC. 1003. That in all cases where the method of collecting the tax imposed by this Act is not specifically provided, the tax shall be collected in such manner as the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury may prescribe. All administrative and penalty provisions of Title VIII of this Act, in so far as applicable, shall apply to the collection of any tax which the Commissioner of Internal Revenue determines or prescribes shall be paid by stamp.

Penalty for failure to make return or making false or fraudulent return.

SEC. 1004. That whoever fails to make any return required by this Act or the regulations made under authority thereof within the time prescribed or who makes any false or fraudulent return, and whoever evades or attempts to evade any tax imposed by this Act or fails to collect or truly to account for and pay over any such tax, shall be subject to a penalty of not more than \$1,000, or to imprisonment for not more than one year, or both, at the discretion of the court, and in addition thereto a penalty of double the tax evaded, or not col-

lected, or accounted for and paid over, to be assessed and collected in the same manner as taxes are assessed and collected, in any case in which the punishment is not otherwise specifically provided.

Passengers failing to pay and carriers failing to collect 8 per cent passenger tax subject themselves to penalties imposed by this section. (T. D. 2596.)

One failing to file income tax return can not be successfully prosecuted, where collector of internal revenue's offer to compromise on payment of tax and penalty was accepted. (*Rau v. United States*, 280 Fed., 131.)

Where internal revenue officers, after defendant admitted he had not filed income tax return, accepted both tax and penalty, informing defendant that such payment would end matter and there would be no indictment, such acceptance and statement were a compromise and constituted bar to prosecution. (Id.)

Fact that sum paid by defendant was retained by the Treasury is evidence that money was received in compromise of case. (Id.)

Rules and regulations.

SEC. 1005. That the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, is hereby authorized to make all needful rules and regulations for the enforcement of the provisions of this Act.

Use of stamps on hand authorized.

SEC. 1006. That where the rate of tax imposed by this Act, payable by stamps, is an increase over previously existing rates, stamps on hand in the collectors' offices and in the Bureau of Internal Revenue may continue to be used until the supply on hand is exhausted, but shall be sold and accounted for at the rates provided by this Act, and assessment shall be made against manufacturers and other taxpayers having such stamps on hand on the day this Act takes effect for the difference between the amount paid for such stamps and the tax due at the rates provided by this Act.

Prior contracts; definition of "dealer."

SEC. 1007. That (a) if any person, corporation, partnership, or association has prior to May ninth, nineteen hundred and seventeen, made a bona fide contract with a dealer for the sale, after the tax takes effect, of any article (or, in the case of moving picture films, such a contract with a dealer, exchange, or exhibitor, for the sale or lease thereof) upon which a tax is imposed under Title III, IV, or VI, or under subdivision thirteen of Schedule A of Title VIII, or under this section, and (b) if such contract does not permit the adding of the whole of such tax to the amount to be paid under such contract, then the vendee or lessee shall, in lieu of the vendor or lessor, pay so much of such tax as is not so permitted to be added to the contract price.

The taxes payable by the vendee or lessee under this section shall be paid to the vendor or lessor at the time the sale or lease is consummated, and collected, returned, and paid to the United States by such vendor or lessor in the same manner as provided in section five hundred and three.

The term "dealer" as used in this section includes a vendee who purchases any article with intent to use it in the manufacture or production of another article intended for sale.

Fractions of a cent.

SEC. 1008. That in the payment of any tax under this Act not payable by stamp a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

Advance payments and credits.

SEC. 1009. That the Secretary of the Treasury, under rules and regulations prescribed by him, shall permit taxpayers liable to income and excess profits taxes to make payments in advance in installments or in whole of an amount not in excess of the estimated taxes which will be due from them, and upon determination of the taxes actually due any amount paid in excess shall be refunded as taxes erroneously collected: *Provided*, That when payment is made in installments at least one-fourth of such estimated tax shall be paid before the expiration of thirty days after the close of the taxable year, at least an additional one-fourth within two months after the close of the taxable year, at least an additional one-fourth within four months after the close of the taxable year, and the remainder of the tax due on or before the time now fixed by law for such payment: *Provided further*, That the Secretary of the Treasury, under rules and regulations prescribed by him, may allow credit against such taxes so paid in advance of an amount not exceeding three per centum per annum calculated upon the amount so paid from the date of such payment to the date now fixed by law for such payment; but no such credit shall be allowed on payments in excess of taxes determined to be due, nor on payments made after the expiration of four and one-half months after the close of the taxable year. All penalties provided by existing law for failure to pay tax when due are hereby made applicable to any failure to pay the tax at the time or times required in this section.

Interest at rate of 3 per cent per annum allowed on advance payments must be considered income and accounted for as such by taxpayer in return for year in which interest is allowed. (T. D. 2695.)

Certificates of indebtedness; uncertified checks.

SEC. 1010. That under rules and regulations prescribed by the Secretary of the Treasury, collectors of internal revenue may receive, at par and accrued interest, certificates of indebtedness issued under section six of the Act entitled "An Act to authorize an issue of bonds to meet expenditures for the national security and defense, and, for the purpose of assisting in the prosecution of the war, to extend credit to foreign governments, and for other purposes," approved April twenty-fourth, nineteen hundred and seventeen, and any subsequent Act or Acts, and uncertified checks in payment of income and excess-profits taxes, during such time and under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe; but if a check so received is not paid by the bank on which it is drawn the person by whom such check has been tendered shall remain liable for the payment of the tax and for all legal penalties and additions the same as if such check had not been tendered.

Instructions relative to acceptance of certificates of indebtedness for taxes; schedule showing accrued interest payable any day from February 15 to June 25, 1918. (T. D. 2656.)

TITLE XII.—INCOME TAX AMENDMENTS.

Act of September 8, 1916 (secs. 2, 4).

SEC. 1200. That subdivision (a) of section two of such Act of September eighth, nineteen hundred and sixteen, is hereby amended to read as follows:

"(a) That, subject only to such exemptions and deductions as are hereinafter allowed, the net income of a taxable person shall include gains, profits, and income, derived from salaries, wages, or compensation for personal service of whatever kind and in whatever form paid, or from professions, vocations, businesses, trade, commerce, or sales, or dealings in property, whether real or personal, growing out of the ownership or use of or interest in real or personal property, also from interest, rent, dividends, securities, or the transaction of any business carried on for gain or profit, or gains or profits and income derived from any source whatever."

Section four of such Act of September eighth, nineteen hundred and sixteen, is hereby amended to read as follows:

"Sec. 4. The following income shall be exempt from the provisions of this title:

"The proceeds of life insurance policies paid to individual beneficiaries upon the death of the insured; the amount received by the insured, as a return of premium or premiums paid by him under life insurance, endowment, or annuity contracts, either during the term or at the maturity of the term mentioned in the contract or upon surrender of the contract; the value of property acquired by gift, bequest, devise, or descent (but the income from such property shall be included as income); interest upon the obligations of a State or any political subdivision thereof or upon the obligations of the United States (but, in the case of obligations of the United States issued after September first, nineteen hundred and seventeen, only if and to the extent provided in the Act authorizing the issue thereof) or its possessions or securities issued under the provisions of the Federal Farm Loan Act of July seventeenth, nineteen hundred and sixteen; the compensation of the present President of the United States during the term for which he has been elected and the judges of the supreme and inferior courts of the United States now in office, and the compensation of all officers and employees of a State, or any political subdivision thereof, except when such compensation is paid by the United States Government."

Application of income and excess profits taxes to Liberty bonds issued or to be issued under act of September 24, 1917. (T. D. 2541.)

Taxability of salaries received under funds of Smith-Lever Act of May 8, 1914. (T. D. 2668.)

Revision of articles 83 and 84 of Regulations, No. 33, relative to interest upon obligations of State or political subdivision thereof. (T. D. 2715.)

Determination of amount of gain or loss on sale of stock received as stock dividend; paragraphs 28 and 60 of Regulations, No. 33, revised. (T. D. 2734.)

Tax exemption of Liberty bonds and Victory notes. (T. D. 2836.)

Income from not to exceed \$5,000 face value of Liberty bonds, Treasury certificates of indebtedness, and War Saving certificates authorized by the act of September 24, 1917, is exempt from taxes. (T. D. 2585.)

Act of September 8, 1916 (sec. 5).

SEC. 1201. (1) That paragraphs second and third of subdivision (a) of section five of such Act of September eighth, nineteen hundred and sixteen, are hereby amended to read as follows:

"Second. All interest paid within the year on his indebtedness except on indebtedness incurred for the purchase of obligations or securities the interest upon which is exempt from taxation as income under this title;

"Third. Taxes paid within the year imposed by the authority of the United States (except income and excess profits taxes) or of its Territories, or possessions, or any foreign country, or by the authority of any State, county, school district, or municipality, or other taxing subdivision of any State, not including those assessed against local benefits;"

(2) That section five of such Act of September eighth, nineteen hundred and sixteen, is hereby amended by adding at the end of subdivision (a) a further paragraph, numbered nine, to read as follows:

"Ninth. Contributions or gifts actually made within the year to corporations or associations organized and operated exclusively for religious, charitable, scientific, or educational purposes, or to societies for the prevention of cruelty to children or animals, no part of the net income of which inures to the benefit of any private stockholder or individual, to an amount not in excess of fifteen per centum of the taxpayer's taxable net income as computed without the benefit of this paragraph. Such contributions or gifts shall be allowable as deductions only if verified under rules and regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury."

Interest paid within year on indebtedness incurred for purchase of Liberty 4 per cent bonds deductible in computing net income subject to surtaxes and excess profits taxes. (T. D. 2541.)

Investments in obligations of United States by corporation or partnership from capital, surplus, or undivided profits will be included in invested capital for purpose of computing deduction and rate of taxation for excess profits tax, but undivided profits earned during taxable year can not be included in invested capital. (T. D. 2541.)

Act of September 8, 1916 (sec. 6).

SEC. 1202. That (1) paragraphs second and third of subdivision (a) of section six of such Act of September eighth, nineteen hundred and sixteen, are hereby amended to read as follows:

"Second. The proportion of all interest paid within the year by such person on his indebtedness (except on indebtedness incurred for the purchase of obligations or securities the interest upon which is exempt from taxation as income under this title) which the gross amount of his income for the year derived from sources within the United States bears to the gross amount of his income for the year derived from all sources within and without the United States, but this deduction shall be allowed only if such person includes in the return required by section eight all the information necessary for its calculation;

"Third. Taxes paid within the year imposed by the authority of the United States (except income and excess profits taxes), or of its

Territories, or possessions, or by the authority of any State, county, school district, or municipality, or other taxing subdivision of any State, paid within the United States, not including those assessed against local benefits;"

(2) Section six of such Act of September eighth, nineteen hundred and sixteen, is also further amended by adding a new subdivision to read as follows:

"(c) A nonresident alien individual shall receive the benefit of the deductions and credits provided for in this section only by filing or causing to be filed with the collector of internal revenue a true and accurate return of his total income, received from all sources, corporate or otherwise, in the United States, in the manner prescribed by this title; and in case of his failure to file such return the collector shall collect the tax on such income, and all property belonging to such nonresident alien individual shall be liable to distraint for the tax."

Act of September 8, 1916 (sec. 7).

SEC. 1203. (1) That section seven of such Act of September eighth, nineteen hundred and sixteen, is hereby amended to read as follows:

"SEC. 7. That for the purpose of the normal tax only, there shall be allowed as an exemption in the nature of a deduction from the amount of the net income of each citizen or resident of the United States, ascertained as provided herein, the sum of \$3,000, plus \$1,000 additional if the person making the return be a head of a family or a married man with a wife living with him, or plus the sum of \$1,000 additional if the person making the return be a married woman with a husband living with her; but in no event shall this additional exemption of \$1,000 be deducted by both a husband and a wife: *Provided*, That only one deduction of \$4,000 shall be made from the aggregate income of both husband and wife when living together: *Provided further*, That if the person making the return is the head of a family there shall be an additional exemption of \$200 for each child dependent upon such person, if under eighteen years of age, or if incapable of self-support because mentally or physically defective, but this provision shall operate only in the case of one parent in the same family: *Provided further*, That guardians or trustees shall be allowed to make this personal exemption as to income derived from the property of which such guardian or trustee has charge in favor of each ward or cestui que trust: *Provided further*, That in no event shall a ward or cestui que trust be allowed a greater personal exemption than as provided in this section, from the amount of net income received from all sources. There shall also be allowed an exemption from the amount of the net income of estates of deceased citizens or residents of the United States during the period of administration or settlement, and of trust or other estates of citizens or residents of the United States the income of which is not distributed annually or regularly under the provisions of subdivision (b) of section two, the sum of \$3,000, including such deductions as are allowed under section five."

(2) Subdivision (b) of section seven of such Act of September eighth, nineteen hundred and sixteen, is hereby repealed.

Act of September 8, 1916 (sec. 8).

SEC. 1204. (1) That subdivisions (c) and (e) of section eight of such Act of September eighth, nineteen hundred and sixteen, are hereby amended to read as follows:

"(c) Guardians, trustees, executors, administrators, receivers, conservators, and all persons, corporations, or associations, acting in any fiduciary capacity, shall make and render a return of the income of the person, trust, or estate for whom or which they act, and be subject to all the provisions of this title which apply to individuals. Such fiduciary shall make oath that he has sufficient knowledge of the affairs of such person, trust, or estate to enable him to make such return and that the same is, to the best of his knowledge and belief, true and correct, and be subject to all the provisions of this title which apply to individuals: *Provided*, That a return made by one of two or more joint fiduciaries filed in the district where such fiduciary resides, under such regulations as the Secretary of the Treasury may prescribe, shall be a sufficient compliance with the requirements of this paragraph: *Provided further*, That no return of income not exceeding \$3,000 shall be required except as in this title otherwise provided.

"(e) Persons carrying on business in partnership shall be liable for income tax only in their individual capacity, and the share of the profits of the partnership to which any taxable partner would be entitled if the same were divided, whether divided or otherwise, shall be returned for taxation and the tax paid under the provisions of this title: *Provided*, That from the net distributive interests on which the individual members shall be liable for tax, normal and additional, there shall be excluded their proportionate shares received from interests on the obligations of a State or any political or taxing subdivision thereof, and upon the obligations of the United States (if and to the extent that it is provided in the Act authorizing the issue of such obligations of the United States that they are exempt from taxation), and its possessions, and that for the purpose of computing the normal tax there shall be allowed a credit, as provided by section five, subdivision (b), for their proportionate share of the profits derived from dividends. Such partnership, when requested by the Commissioner of Internal Revenue or any district collector, shall render a correct return of the earnings, profits, and income of the partnership, except income exempt under section four of this Act, setting forth the item of the gross income and the deductions and credits allowed by this title, and the names and addresses of the individuals who would be entitled to the net earnings, profits, and income, if distributed. A partnership shall have the same privilege of fixing and making returns upon the basis of its own fiscal year as is accorded to corporations under this title. If a fiscal year ends during nineteen hundred and sixteen or a subsequent calendar year for which there is a rate of tax different from the rate for the preceding calendar year, then (1) the rate for such preceding calendar year shall apply to an amount of each partner's share of such partnership profits equal to the proportion which the part of such fiscal year falling within such calendar year bears to the full fiscal year, and (2) the rate for the calendar year during which such fiscal year ends shall apply to the remainder."

(2) Subdivision (d) of section eight of such Act of September eighth, nineteen hundred and sixteen, is hereby repealed.

Act of September 8, 1916 (sec. 9).

SEC. 1205. (1) That subdivisions (b), (c), (f), and (g) of section nine of such Act of September eighth, nineteen hundred and sixteen, are hereby amended to read as follows:

"(b) All persons, corporations, partnerships, associations, and insurance companies, in whatever capacity acting, including lessees or mortgagors of real or personal property, trustees acting in any trust capacity, executors, administrators, receivers, conservators, employers, and all officers and employees of the United States, having the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities, compensation, remuneration, emoluments, or other fixed or determinable annual or periodical gains, profits, and income of any nonresident alien individual, other than income derived from dividends on capital stock, or from the net earnings of a corporation, joint-stock company or association, or insurance company, which is taxable upon its net income as provided in this title, are hereby authorized and required to deduct and withhold from such annual or periodical gains, profits, and incomes such sum as will be sufficient to pay the normal tax imposed thereon by this title, and shall make return thereof on or before March first of each year and, on or before the time fixed by law for the payment of the tax, shall pay the amount withheld to the officer of the United States Government authorized to receive the same; and they are each hereby made personally liable for such tax, and they are each hereby indemnified against every person, corporation, partnership, association, or insurance company, or demand whatsoever for all payments which they shall make in pursuance and by virtue of this title.

"(c) The amount of the normal tax hereinbefore imposed shall also be deducted and withheld from fixed or determinable annual or periodical gains, profits and income derived from interest upon bonds and mortgages, or deeds of trust or other similar obligations of corporations, joint-stock companies, associations, and insurance companies, (if such bonds, mortgages, or other obligations contain a contract or provision by which the obligor agrees to pay any portion of the tax imposed by this title upon the obligee or to reimburse the obligee for any portion of the tax or to pay the interest without deduction for any tax which the obligor may be required or permitted to pay thereon or to retain therefrom under any law of the United States) whether payable annually or at shorter or longer periods and whether such interest is payable to a non-resident alien individual or to an individual citizen or resident of the United States, subject to the provisions of the foregoing subdivision (b) of this section requiring the tax to be withheld at the source and deducted from annual income and returned and paid to the Government, unless the person entitled to receive such interest shall file with the withholding agent, on or before February first, a signed notice in writing claiming the benefit of an exemption under section seven of this Title.

"(f) All persons, corporations, partnerships, or associations, undertaking as a matter of business or for profit the collection of foreign

payments of interest or dividends by means of coupons, checks, or bills of exchange shall obtain a license from the Commissioner of Internal Revenue, and shall be subject to such regulations enabling the Government to obtain the information required under this title, as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, shall prescribe; and whoever knowingly undertakes to collect such payments as aforesaid without having obtained a license therefor, or without complying with such regulations, shall be deemed guilty of a misdemeanor and for each offense be fined in a sum not exceeding \$5,000, or imprisoned for a term not exceeding one year, or both, in the discretion of the court.

“(g) The tax herein imposed upon gains, profits, and incomes not falling under the foregoing and not returned and paid by virtue of the foregoing or as otherwise provided by law shall be assessed by personal return under rules and regulations to be prescribed by the Commissioner of Internal Revenue and approved by the Secretary of the Treasury. The intent and purpose of this title is that all gains, profits, and income of a taxable class, as defined by this title, shall be charged and assessed with the corresponding tax, normal and additional, prescribed by this title, and said tax shall be paid by the owner of such income, or the proper representative having the receipt, custody, control, or disposal of the same. For the purpose of this title ownership or liability shall be determined as of the year for which a return is required to be rendered.

“The provisions of this section, except subdivision (c), relating to the deduction and payment of the tax at the source of income shall only apply to the normal tax hereinbefore imposed upon nonresident alien individuals.”

(2) Subdivisions (d) and (e) of section nine of such Act of September eighth, nineteen hundred and sixteen, are hereby repealed.

Interest on bank deposits paid to nonresident alien individuals held subject to withholding provisions of this act. (T. Ds. 2623, 2652.)

Act of September 8, 1916 (sec. 10).

SEC. 1206. (1) That the first paragraph of section ten of such Act of September eighth, nineteen hundred and sixteen, is hereby amended to read as follows:

“SEC. 10. (a) That there shall be levied, assessed, collected, and paid annually upon the total net income received in the preceding calendar year from all sources by every corporation, joint-stock company or association, or insurance company, organized in the United States, no matter how created or organized, but not including partnerships, a tax of two per centum upon such income; and a like tax shall be levied, assessed, collected, and paid annually upon the total net income received in the preceding calendar year from all sources within the United States by every corporation, joint-stock company or association, or insurance company, organized, authorized, or existing under the laws of any foreign country, including interest on bonds, notes, or other interest-bearing obligations of residents, corporate or otherwise, and including the income derived from dividends on capital stock or from net earnings of resident corporations, joint-stock companies or associations, or insurance companies, whose net income is taxable under this title.”

(2) Section ten of such Act of September eighth, nineteen hundred and sixteen, is hereby further amended by adding a new subdivision as follows:

"(b) In addition to the income tax imposed by subdivision (a) of this section there shall be levied, assessed, collected, and paid annually an additional tax of ten per centum upon the amount, remaining undistributed six months after the end of each calendar or fiscal year, of the total net income of every corporation, joint-stock company or association, or insurance company, received during the year, as determined for the purposes of the tax imposed by such subdivision (a), but not including the amount of any income taxes paid by it within the year imposed by the authority of the United States.

"The tax imposed by this subdivision shall not apply to that portion of such undistributed net income which is actually invested and employed in the business or is retained for employment in the reasonable requirements of the business or is invested in obligations of the United States issued after September first, nineteen hundred and seventeen: *Provided*, That if the Secretary of the Treasury ascertains and finds that any portion of such amount so retained at any time for employment in the business is not so employed or is not reasonably required in the business a tax of fifteen per centum shall be levied, assessed, collected, and paid thereon.

"The foregoing tax rates shall apply to the undistributed net income received by every taxable corporation, joint-stock company or association, or insurance company in the calendar year nineteen hundred and seventeen and in each year thereafter, except that if it has fixed its own fiscal year under the provisions of existing law, the foregoing rates shall apply to the proportion of the taxable undistributed net income returned for the fiscal year ending prior to December thirty-first, nineteen hundred and seventeen, which the period between January first, nineteen hundred and seventeen, and the end of such fiscal year bears to the whole of such fiscal year."

Rulings relative to additional tax on undistributed earnings of corporation. (T. D. 2700.)

Article 62 of Regulations No. 33 and article 2 of Regulations No. 41, regarding limited partnerships, revised. (T. D. 2711.)

Synopsis of decisions relating to tax on undistributed net income of corporations, joint-stock companies and associations, and insurance companies. (T. Ds. 2736, 2763.)

Cooperative merchandising organizations are subject to provision of act; periodical refunds to purchasers to be regarded as discounts, reducing organization's net income; recipient need not return them as income but should treat sums so received as rebates. (T. D. 2737.)

Act of September 8, 1916 (sec. 12).

SEC. 1207. (1) That paragraphs third and fourth of subdivision (a) of section twelve of such Act of September eighth, nineteen hundred and sixteen, are hereby amended to read as follows:

"Third. The amount of interest paid within the year on its indebtedness (except on indebtedness incurred for the purchase of obligations or securities the interest upon which is exempt from taxation as income under this title) to an amount of such indebtedness not in excess of the sum of (a) the entire amount of the paid-up capital stock outstanding at the close of the year, or, if no capital stock, the entire amount of capital employed in the business at the close of the

year, and (b) one-half of its interest-bearing indebtedness then outstanding: *Provided*, That for the purpose of this title preferred capital stock shall not be considered interest-bearing indebtedness, and interest or dividends paid upon this stock shall not be deductible from gross income: *Provided further*, That in cases wherein shares of capital stock are issued without par or nominal value, the amount of paid-up capital stock, within the meaning of this section, as represented by such shares, will be the amount of cash, or its equivalent, paid or transferred to the corporation as a consideration for such shares: *Provided further*, That in the case of indebtedness wholly secured by property collateral, tangible or intangible, the subject of sale or hypothecation in the ordinary business of such corporation, joint-stock company or association as a dealer only in the property constituting such collateral, or in loaning the funds thereby procured, the total interest paid by such corporation, company, or association within the year on any such indebtedness may be deducted as a part of its expenses of doing business, but interest on such indebtedness shall only be deductible on an amount of such indebtedness not in excess of the actual value of such property collateral: *Provided further*, That in the case of bonds or other indebtedness, which have been issued with a guaranty that the interest payable thereon shall be free from taxation, no deduction for the payment of the tax herein imposed, or any other tax paid pursuant to such guaranty, shall be allowed; and in the case of a bank, banking association, loan or trust company, interest paid within the year on deposits or on moneys received for investment and secured by interest-bearing certificates of indebtedness issued by such bank, banking association, loan or trust company shall be deducted;

"Fourth. Taxes paid within the year imposed by the authority of the United States (except income and excess profits taxes), or of its Territories, or possessions, or any foreign country, or by the authority of any State, county, school district, or municipality, or other taxing subdivision of any State, not including those assessed against local benefits."

(2) Paragraphs third and fourth of subdivision (b) of section twelve of such Act of September eighth, nineteen hundred and sixteen, are hereby amended to read as follows:

"Third. The amount of interest paid within the year on its indebtedness (except on indebtedness incurred for the purchase of obligations or securities the interest upon which is exempt from taxation as income under this title) to an amount of such indebtedness not in excess of the proportion of the sum of (a) the entire amount of the paid-up capital stock outstanding at the close of the year, or, if no capital stock, the entire amount of the capital employed in the business at the close of the year, and (b) one-half of its interest-bearing indebtedness then outstanding, which the gross amount of its income for the year from business transacted and capital invested within the United States bears to the gross amount of its income derived from all sources within and without the United States: *Provided*, That in the case of bonds or other indebtedness which have been issued with a guaranty that the interest payable thereon shall be free from taxation, no deduction for the payment of the tax herein

imposed or any other tax paid pursuant to such guaranty shall be allowed; and in case of a bank, banking association, loan or trust company, or branch thereof, interest paid within the year on deposits by or on moneys received for investment from either citizens or residents of the United States and secured by interest-bearing certificates of indebtedness issued by such bank, banking association, loan or trust company, or branch thereof;

"Fourth. Taxes paid within the year imposed by the authority of the United States (except income and excess profits taxes), or of its Territories, or possessions, or by the authority of any State, county, school district, or municipality, or other taxing subdivision of any State, paid within the United States, not including those assessed against local benefits."

Act of September 8, 1916 (sec. 13).

SEC. 1208. That subdivision (e) of section thirteen of such Act of September eighth, nineteen hundred and sixteen, is hereby amended to read as follows:

"(e) All the provisions of this title relating to the tax authorized and required to be deducted and withheld and paid to the officer of the United States Government authorized to receive the same from the income of nonresident alien individuals from sources within the United States shall be made applicable to the tax imposed by subdivision (a) of section ten upon incomes derived from interest upon bonds and mortgages or deeds of trust or similar obligations of domestic or other resident corporations, joint-stock companies or associations, and insurance companies by nonresident alien firms, copartnerships, companies, corporations, joint-stock companies or associations, and insurance companies, not engaged in business or trade within the United States and not having any office or place of business therein."

Act of September 8, 1916 (sec. 18).

SEC. 1209. That section eighteen of such Act of September eighth, nineteen hundred and sixteen, is hereby amended to read as follows:

"Sec. 18. That any person, corporation, partnership, association, or insurance company, liable to pay the tax, to make a return or to supply information required under this title, who refuses or neglects to pay such tax, to make such return or to supply such information at the time or times herein specified in each year, shall be liable, except as otherwise specially provided in this title, to a penalty of not less than \$20 nor more than \$1,000. Any individual or any officer of any corporation, partnership, association, or insurance company, required by law to make, render, sign, or verify any return or to supply any information, who makes any false or fraudulent return or statement with intent to defeat or evade the assessment required by this title to be made, shall be guilty of a misdemeanor, and shall be fined not exceeding \$2,000 or be imprisoned not exceeding one year, or both, in the discretion of the court, with the costs of prosecution: *Provided*, That where any tax heretofore due and payable has been duly paid by the taxpayer, it shall not be re-collected from any withholding agent required to retain it at its source, nor shall any

penalty be imposed or collected in such cases from the taxpayer, or such withholding agent whose duty it was to retain it, for failure to return or pay the same, unless such failure was fraudulent and for the purpose of evading payment."

Act of September 8, 1916 (sec. 26); returns as to dividends paid.

SEC. 1210. That section twenty-six of such Act of September eighth, nineteen hundred and sixteen, as amended by the Act entitled "An Act to provide increased revenue to defray the expenses of the increased appropriations for the Army and Navy and the extensions of fortifications, and for other purposes," approved March third, nineteen hundred and seventeen, is hereby amended to read as follows:

"SEC. 26. Every corporation, joint-stock company or association, or insurance company subject to the tax herein imposed, when required by the Commissioner of Internal Revenue, shall render a correct return, duly verified under oath, of its payments of dividends, whether made in cash or its equivalent or in stock, including the names and addresses of stockholders and the number of shares owned by each, and the tax years and the applicable amounts in which such dividends were earned, in such form and manner as may be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury."

Act of September 8, 1916 (secs. 27-32 added).

SEC. 1211. That Title I of such Act of September eighth, nineteen hundred and sixteen, is hereby amended by adding to Part III six new sections, as follows:

"SEC. 27. That every person, corporation, partnership, or association, doing business as a broker on any exchange or board of trade or other similar place of business shall, when required by the Commissioner of Internal Revenue, render a correct return duly verified under oath, under such rules and regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe, showing the names of customers for whom such person, corporation, partnership, or association has transacted any business, with such details as to the profits, losses, or other information which the commissioner may require, as to each of such customers, as will enable the Commissioner of Internal Revenue to determine whether all income tax due on profits or gains of such customers has been paid.

"SEC. 28. That all persons, corporations, partnerships, associations, and insurance companies, in whatever capacity acting, including lessees or mortgagors of real or personal property, trustees acting in any trust capacity, executors, administrators, receivers, conservators, and employers, making payment to another person, corporation, partnership, association, or insurance company, of interest, rent, salaries, wages, premiums, annuities, compensation, remuneration, emoluments, or other fixed or determinable gains, profits, and income (other than payments described in sections twenty-six and twenty-seven), of \$800 or more in any taxable year, or, in the case of such payments made by the United States, the officers or employees of the United States having information as to such payments

and required to make returns in regard thereto by the regulations hereinafter provided for, are hereby authorized and required to render a true and accurate return to the Commissioner of Internal Revenue, under such rules and regulations and in such form and manner as may be prescribed by him, with the approval of the Secretary of the Treasury, setting forth the amount of such gains, profits, and income, and the name and address of the recipient of such payment: *Provided*, That such returns shall be required, regardless of amounts, in the case of payments of interest upon bonds and mortgages or deeds of trust or other similar obligations of corporations, joint-stock companies, associations, and insurance companies, and in the case of collections of items (not payable in the United States) of interest upon the bonds of foreign countries and interest from the bonds and dividends from the stock of foreign corporations by persons, corporations, partnerships, or associations, undertaking as a matter of business or for profit the collection of foreign payments of such interest or dividends by means of coupons, checks, or bills of exchange.

“When necessary to make effective the provisions of this section the name and address of the recipient of income shall be furnished upon demand of the person, corporation, partnership, association, or insurance company paying the income.

“The provisions of this section shall apply to the calendar year nineteen hundred and seventeen and each calendar year thereafter, but shall not apply to the payment of interest on obligations of the United States.

Instructions relating to information at source. (T. D. 2670.)

Article 35 of Regulations No. 33 revised by defining foreign items and regulating furnishing of information by bank or agency collecting such items. (T. D. 2716.)

“SEC. 29. That in assessing income tax the net income embraced in the return shall also be credited with the amount of any excess profits tax imposed by Act of Congress and assessed for the same calendar or fiscal year upon the taxpayer, and, in the case of a member of a partnership, with his proportionate share of such excess profits tax imposed upon the partnership.

“SEC. 30. That nothing in section II of the Act approved October third, nineteen hundred and thirteen, entitled ‘An Act to reduce tariff duties and to provide revenue for the Government, and for other purposes,’ or in this title, shall be construed as taxing the income of foreign governments received from investments in the United States in stocks, bonds, or other domestic securities, owned by such foreign governments, or from interest on deposits in banks in the United States of moneys belonging to foreign governments.

“SEC. 31. (a) That the term ‘dividends’ as used in this title shall be held to mean any distribution made or ordered to be made by a corporation, joint-stock company, association, or insurance company, out of its earnings or profits accrued since March first, nineteen hundred and thirteen, and payable to its shareholders, whether in cash or in stock of the corporation, joint-stock company, association, or insurance company, which stock dividend shall be considered income, to the amount of the earnings or profits so distributed.

"(b) Any distribution made to the shareholders or members of a corporation, joint-stock company, or association, or insurance company, in the year nineteen hundred and seventeen, or subsequent tax years, shall be deemed to have been made from the most recently accumulated undivided profits or surplus, and shall constitute a part of the annual income of the distributee for the year in which received, and shall be taxed to the distributee at the rates prescribed by law for the years in which such profits or surplus were accumulated by the corporation, joint-stock company, association, or insurance company, but nothing herein shall be construed as taxing any earnings or profits accrued prior to March first, nineteen hundred and thirteen, but such earnings or profits may be distributed in stock dividends or otherwise, exempt from the tax, after the distribution of earnings and profits accrued since March first, nineteen hundred and thirteen, has been made. This subdivision shall not apply to any distribution made prior to August sixth, nineteen hundred and seventeen, out of earnings or profits accrued prior to March first, nineteen hundred and thirteen.

Burden is upon corporation seeking to establish distribution in current year of profits of preceding taxable year to show that earnings of current year have been distributed; corporation may treat undivided profits and surplus of current year as reduced by payments for income and excess profits tax; restrictions as to distribution of earnings of previous taxable years do not apply to use of earnings for investments by corporation; amounts invested in obligations of United States issued after September 1, 1917, may be treated as made from such earnings as corporation may designate. (T. D. 2700.)

Determination of amount of gain or loss on sale of stock received as stock dividend; paragraphs 28 and 60 of Regulations No. 33, revised. (T. D. 2734.)

Basis of taxation of stock dividends. (T. D. 2659.)

"SEC. 32. That premiums paid on life insurance policies covering the lives of officers, employees, or those financially interested in any trade or business conducted by an individual, partnership, corporation, joint-stock company or association, or insurance company, shall not be deducted in computing the net income of such individual, corporation, joint-stock company or association, or insurance company, or in computing the profits of such partnership for the purposes of subdivision (e) of section nine."

Releasing amount of tax retained by withholding agent.

SEC. 1212. That any amount heretofore withheld by any withholding agent as required by Title I of such Act of September eighth, nineteen hundred and sixteen, on account of the tax imposed upon the income of any individual, a citizen or resident of the United States, for the calendar year nineteen hundred and seventeen, except in the cases covered by subdivision (c) of section nine of such Act, as amended by this Act, shall be released and paid over to such individual, and the entire tax upon the income of such individual for such year shall be assessed and collected in the manner prescribed by such Act as amended by this Act.

Release of tax withheld at source in cases where substitute certificates (Form 1059) were used. (T. D. 2635.)

TITLE XIII.—GENERAL PROVISIONS.

Effect of partial invalidity.

SEC. 1300. That if any clause, sentence, paragraph, or part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of said Act, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Repeal of Title I, act of March 3, 1917.

SEC. 1301. That Title I of the Act entitled "An Act to provide increased revenue to defray the expenses of the increased appropriations for the Army and Navy and the extension of fortifications, and for other purposes," approved March third, nineteen hundred and seventeen, be, and the same is hereby, repealed.

Date effective.

SEC. 1302. That unless otherwise herein specially provided, this Act shall take effect on the day following its passage.

Citation of act.

SEC. 1303. [*Added by sec. 1404, act of February 24, 1919 (40 Stat., 1057).*] That this Act may be cited as the "Revenue Act of 1917."

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